Commission Meeting

of

THE COMMISSION TO STUDY THE LAW OF DIVORCE

"Testimony and Discussion Regarding
the Law of Divorce in New Jersey"

LOCATION: State House
Room 319
Trenton, New Jersey

DATE: November 2, 1994
3:00 p.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Walter J. Kavanaugh, Chairman
Douglas K. Schoenberg, Esq., Vice Chairman
Nancy J. Benz
Carol Bishop
Robert P. Broderick
Sara Flohr
Irene Von Seydewitz
Frank A. Louis, Esq.
Jeffrey S. Blitz, Esq.
Marianne Espinosa Murphy, Esq.

ALSO PRESENT:

Patricia K. Nagle
Office of Legislative Services
Aide, Commission to Study the Law of Divorce

New Jersey State Library

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OFFICE OF LEGISLATIVE SERVICES
LEGISLATIVE OFFICE BUILDING
CN-068
TRENTON, NEW JERSEY 08625-0068

ALBERT PORRONI
Executive Director
(609) 292-4625

GLENN E. MOORE, III
Director of Central Staff
(609) 984-4811

JOHN J. TUMULTY
Section Chief
(609) 292-5526

MEETING NOTICE

TO: Members of the Commission to Study the Law of Divorce

FROM: Assemblyman Walter J. Kavanaugh

DATE: October 13, 1994

SUBJECT: MEETING DATE

A meeting of the Commission to Study the Law of Divorce will be held on Wednesday, November 2, 1994 at 3:00 p.m. in Room 319 of the State House, Trenton, New Jersey.

The chairman wishes to note that persons permitted to testify will be subject to time limitations for their oral presentation depending on the number of persons in attendance who wish to speak. Persons who have testified previously at a public hearing will be given an opportunity to speak as time permits.

The public may address comments and questions to Patricia K. Nagle, Committee Aide and persons wishing to testify should contact Elaine Fennelli, secretary, at (609) 292-5526. Those persons presenting written testimony should provide 15 copies to the committee on the day of the hearing.

WK:N/ef

*NOTE: Due to an intermittent electrial malfunction in the hearing room, portions of spoken testimony were not able to be recorded. Please refer to appended material submitted by those witnesses whose testimony was unable to be recorded.

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ses: 1-58

ASSEMBLYMAN WALTER J. KAVANAUGH: Good afternoon, ladies and gentlemen. For the Commission members, the black microphone with the button -- pull it toward you, it will be on. If you are not speaking, if you would leave it off so we don't have feedback. The silver microphone is for the transcribing of the testimony and also of your own. So if you would check now that the black microphone is in the off position until you want to speak, then you can turn it to the on position.

We have a list here. I would like to say that there were individuals in Wayne, at our previous public hearing, who did not have the opportunity to speak, so we have put them at the beginning. Once again, we have time constraints, and I am asking today, at this public hearing -- as we mentioned while we were in Wayne -- that we will take testimony from those who have not testified before, so everyone can have the opportunity to be heard. There is only one exception and that is an individual I had mentioned in Wayne, who has been at every meeting with a great deal of concern.

I would ask him, at this time -- because he has another engagement with some people -- to testify first, limited. All testimony is limited to five minutes. He said he needs three to four minutes. He has some others who are with him. He is going to summarize that testimony, and then he will be leaving. So, Marty--

M A R T I N R O D E T S K Y: (plays audio tape) In the interest of time, I'm not going to go through my full talk because of the conversation I had with Assemblyman Kavanaugh. (portion of testimony lost due to electrical malfunction)

I'm going to be nice.

ASSEMBLYMAN KAVANAUGH: (beginning of statement lost due to machine malfunction) --the members of this Commission, I'll have to say, goodbye.

MR. RODETSKY: Family Court must be abolished to eliminate the fraud, extortion, corruption, and treason being perpetrated by murderers of families in black dresses (portion of testimony lost due to electrical malfunction).

But the issue is, for those of you who don't know-- I was asked to bring this up again. For those of you who don't know, that is Maryanne Espinosa Murphy in her finest hour as judge. She is no longer a judge. The purpose of this Commission is to find all of the other judges who have probably done exactly (portion of testimony lost due to electrical malfunction).

What is exciting and invigorating about this hearing is the opportunity to share the knowledge I've gained from exposures to such leading (portion of testimony lost due to electrical malfunction) and Maryanne Espinosa Murphy. What I learned is that all judges in Family Court are criminals operating fraud, deception, subterfuge, and evasion under color of State law to extort money from innocent litigants who make the mistake of appearing before them.

While the best guess is that proposed legislation from this Commission might become law in two to three years, you have the power to stop this court today. You can stop Family Court in its tracks simply by saying, "No": No, to excessive support payments; no, to restrictions on access to your own children; no, to false charges of domestic violence; no, to cattle-chute justice imitating law to hide the fraud being perpetrated by government under the banner of, "for the best interests of the children"; no, to illegal and unlawful incarcerations under color of law for the purposes of extorting money under the Title 4d program.

Helping, aiding, and abetting this fraud are the lawyers, who collect unconscionable fees for selling out their clients. According to the legal encyclopedias, the attorney's oath is: First, loyalty to the court; second, loyalty to the

State; third, loyalty to public policy, and then whatever is left goes to the client. In Family Court, where your opponents are the court, the State, and public policy, every lawyer has a built-in conflict of interest that they never tell their clients about.

We, therefore, come to the first part of the Family Court argument: Family Court is equity court. Equity court is civil law, and government has no jurisdiction in civil law -- never, at any time, for any reason. As a matter of fact, civil law jurisdiction can only be established when there is a lawful contract and the litigant consents.

The real question is: What is the marriage contract? Is the marriage contract an agreement between the husband and wife -- the spouses -- or is it an unconscionable contract with the State, where the State acts as an equitable partner without consideration. According to the law of contracts, without consideration there is no enforceable contract.

The most bizarre part of Family Court is the original divorce summons. If the alleged defendant simply refuses to appear, the divorce action is terminated. By the same token, since the alleged plaintiff has filed for divorce, the spouse is perfectly within the law to file a breach of contract suit in the Law Division. When the judge tells you that this is a family matter and must be decided in Family Court -- including such lights as the Family Court judges who have confessed in this room that they have no training for what they do -- you're appearing in the Law Division seeking damages for breach of contract; the marriage contract.

I refuse to volunteer to consent to comply; that says it all. If you do not consent to the jurisdiction of the Family Court, that judge has no jurisdiction, no authority, no power to continue. Absent jurisdiction, there is no authority to proceed, there is no power to sanction, there is no authority to contempt, and the judge loses even the illusion of a claim to immunity from suit.

We now come to the lawyers in Family Court. If you have made the mistake of showing up, even in special appearances challenging the jurisdiction of the court, supply the judge and opposing counsel with waivers of immunity from civil suit under Title 42, and from criminal prosecution under Title 18--

For the record, Maryanne Espinosa Murphy refused to sign such a waiver. She depended upon her immunity to keep her from being charged for her criminal actions, even with her husband as a prosecutor in Morris County.

In two years, no judge, no lawyer, has ever signed one of these documents. When they refuse to sign, demand that they remove themselves from the case, as they intend to violate your rights under color of law. Stick to your demands, even if they run roughshod over you.

ASSEMBLYMAN KAVANAUGH: Marty, you have one minute.

MR. RODETSKY: One minute.

Under the Fifth Amendment, your private property is yours and may not be taken for public use. That means, if you are being summoned into court, you are entitled to be paid for it. The judge makes $106,000 a year. That translates into $400 a day, or about $100 per working hour. A 20 percent finder's fee is more than reasonable; demand an $80 fee from the judge. The lawyers make between $250 to $500 per hour; 20 percent of that would be $50 to $100 per hour from the opposing counsel. By the time you factor in the bailiffs, that is another $100.

The issue is, as far as we're concerned-- We at P.A.C.T. are teaching people how they can stop this violation of rights under color of law. Simply put, Family Court judges shouldn't even be there. They should take their black dresses off, put on regular clothes, and act like normal human beings, which they do not do.

If anyone wants to contact us, we're at: 460-1/2 Alden Street, Orange, New Jersey, and we're available for phone conversations as well.

Thank you. (applause)

ASSEMBLYMAN KAVANAUGH: Thank you. Please, now, if you would gather up your recording equipment and, as per agreement, sayonara.

MR. RODETSKY: Sayonara. Thank you, Assemblyman Kavanaugh.

ASSEMBLYMAN KAVANAUGH: William Hess. Is William Hess present? Eleanor Cohen? (names phonetically spelled) (no responses) Kathleen Hoffman? (affirmative response from audience)

Kathleen?

K A T H L E E N H O F F M A N: Yes.

ASSEMBLYMAN KAVANAUGH: Good afternoon.

MS. HOFFMAN: Good afternoon.

ASSEMBLYMAN KAVANAUGH: Kathleen was present in Wayne, and didn't have an opportunity to speak that evening.

MS. HOFFMAN: Yes, that is correct. Thank you.

I have to say, being at the Wayne hearing, there were an awful lot of immaculate conceptions represented at that meeting.

I am the custodial parent of two teenagers whose ex refuses to pay child support. That is what I consider the true deadbeat, not particularly any of the fathers behind me. I declined alimony and have built myself what I consider to be a self-responsible agenda, rather than a self-serving one. I put myself through college, earning a bachelor degree in communication, I consider that, panel, to be the true meaning of what a feminist really is. I do not consider myself a victim; I consider myself a survivor, although we may all be hostages of the system.

It has been estimated by many national studies, up to 60 percent of all marriages will eventually end in divorce -- to many, an appalling prophecy of matrimonial doom. Even more appalling, rather horrifying, is to find that the end of one's marriage is also usually the end to one's lifelong savings and finances.

The current adversarial divorce system that pits litigant against litigant should be replaced by what I consider to be the mediation system, instead. Defining adversarial, we find that adversarial means involving, or considered to involve, adversaries or strongly opposed interests. Litigation, by definition, means contesting in a lawsuit, engaging in legal proceedings. It is not hard to see that without opponents, there would be no litigating, and without litigating, attorneys would have a very limited role -- less charges by the attorneys to litigate, and less costs to the client to have to do so.

Mediation, what is it? It is defined by sources: to settle differences between persons, nations, by intervention, or the intervention of a neutral power; to bring about a peaceful settlement between conflicting parties. It is the last definition that is utmost, and most important. I will repeat it again. It is the intervention of a neutral power to bring about a peaceful settlement.

Remember that adversarial positions involve litigating, not necessarily compromising. One could argue that this is exactly what attorneys do; they intervene to bring about settlement. However, the operative word is neutral. Attorneys are not neutral. By their own admission, they fight for the rights of their clients. Considering that they are paid quite handsomely for every effort they litigate, not mediate, they are position favored rather than mediation neutral. Adversarial systems propagate winners and losers, not fair and equitable, and attorneys get paid even if you go broke.

You need to have rights protected against argumentative or uncompromising spouses or attorneys, who would run up bills out of vengeance or decide that, "I want everything." Attorneys litigate for settlement and not compromise. Settlement is not always favorable to everyone, particularly in the court system, but one should never have to go broke to protect one's interests and life savings. That should be a must, but is not always the case since courts are not always prudent in their judgements, especially where perjury runs rampant and, unfortunately, everyone fights for monetary gain over another.

This is why mediation would be a much better system. Mediation would control costs, as it is a neutral system. Neither party has retained, for their own benefit, someone to, "watch over me and my stuff." The mediator is not paid by the client, but by both clients to the court, using already existing law to determine what is in the best interest of all the parties, not the one who, "hired me."

Mediators would settle only matters that divorcing spouses could come to terms with. Thus, matters already compromised would be set without being reneged on if someone didn't get their way later. The mediator would not be hearing the, he said/she said, or the, she did/he did games of the litigating system, but would instead deal in problem solving communication, with the opposing parties brainwashing -- excuse me, brainstorming possibilities instead of their liabilities. Finances at all times would be available to both parties to see that both have a stake in the mediation purposes and costs. The best interests of the parties remain with the parties, not with the attorneys and not with the attorneys' businesses.

Speaking of attorneys, according to the latest issue of "Money" magazine, and lately within the newspapers, attorneys were awarded, "King of the moneymakers in the nation, above doctors." Their average yearly salary comes to $66,000 a

year. What I find truly appalling are two statements that I found, of two very large, major law firms in the area. I will not name names, and I will not name the law firms. One person said, and I quote, "We will not even consider a client unless there is an escrow involved." The next person, who happens to own the law firm, then stated that, "95 percent of our practice involves divorce cases." I find that appalling, and my little red flags start to go up.

Money is paid to litigate for attorneys, and I find it directly proportional; the more you litigate, the more you get charged. It's an endless circle which is not in the best interests of the clients, who, by law, must pay the lawyer up front to be represented. I hope everyone sees the irony here, because if you can't pay them, they can refuse to represent you, and it says so in the contract.

ASSEMBLYMAN KAVANAUGH: If you could come to a conclusion?

MS. HOFFMAN: Let me conclude with, stand on the ground that, according to the code of ethics -- an individual case is not being brought forth here -- many attorneys have been brought before the Supreme Court Review Board most often charged on overreaching, of which only 1 percent are ever won by the client. This would be an eye-opener in surprising charges and cost to the client for work done or not done. I must say that the mediation system would help defray any costs and leave the costs in the hands of the people who really need them.

Thank you. (applause)

ASSEMBLYMAN KAVANAUGH: Thank you very much.

We have no applause meter here, and I certainly thank you for your enthusiasm, but we want to move through, because people will be more disturbed if they are not heard.

Janet Beddini (no response), Rodney Kerridge (no response), Barbara Franki (no response), Dr. Thomas Graves?

Are you Dr. Thomas Graves?

T H O M A S S. G R A V E S, Ph.D.: (from audience) Yes.

ASSEMBLYMAN KAVANAUGH: Over here (indicating seat).

DR. GRAVES: Who do I give this to? (indicating testimony).

MS. NAGLE (Committee Aide): Here.

ASSEMBLYMAN KAVANAUGH: Good afternoon, Doctor. Once again, I would like to mention that we are limiting testimony to five minutes. We certainly are looking for input, but also, respect is something that I demand of anyone who is testifying. The Commissioners are nonpaid volunteers, have been put on this Commission for a purpose, and abuse is not one of them that they have to receive. Certainly, I hope in the future that we'll see that respect, and we welcome your input.

Thank you.

DR. GRAVES: Okay. I'm here to talk about two topics today. One is the doctrine of tender years, and the other is the need for this Commission to keep some sort of statistics of what actually goes on in court, because we really don't know.

The law of the State of New Jersey, N.J.S.A. 9:2-4, requires that in the matter of deciding custody of minor children following separation or divorce, that both parties be considered equally. This would imply that in divorces where children are involved, men and women would be custodial parents in approximately equal numbers. However, in nearly every case, physical custody is awarded to the woman. Obviously, the law isn't being followed, and I was curious to find out why.

Well, I found the answer in something called the "New Jersey Family Law Practice," which is considered to be a bible of Family Court judges and attorneys. Therein, I found something called the doctrine of tender years. It is the driving force behind most decisions in Family Court, and yet, it is not the intent of the law as the law is stated.

The tender years doctrine, in effect, states that a young child is normally placed with the mother, if she is fit. "New Jersey Family Law Practice" states that there are

conflicting opinions as to whether the tender years doctrine is still the law of New Jersey, and that it certainly survives in the form of an inference from the scientifically unproven idea that a child under seven years has greater need for maternal care than paternal care.

They note that the tender years doctrine raises a constitutional question of denial of equal protection under the law, based on sex discrimination. However, they enumerate many cases which have cited this doctrine. In the case of M.P. v. S.P. -- Appellate Division 1979 -- the Appellate Division awarded custody of two daughters, ages seven years and eleven years, to their mother, despite the mother's homosexuality, stating that, although the Court's personal views may be to the contrary, the Supreme Court has still not displaced the doctrine of tender years.

In the more recent Matter of Baby M, in 1988, the Court held that when mother and father are separate and disagree on custody, only in rare cases should the child be taken from its mother. The reason that they give is that only the mother forms bonds with the child. While this is contrary to all scientific evidence, "New Jersey Family Law Practice" states that the position of the Court on In the Matter of Baby M effectively retrieves and reinforces the tender years doctrine, so that while it is technically not a law, it has the force of law.

"New Jersey Family Law Practice" states that the paramount position held on the issue of custody of children cannot be overstated, and that determination is the most important judicial task a judge has. However, the tender years doctrine makes the most important decision of all a forgone conclusion in 95 percent of cases.

Typically to prove a woman is unfit for motherhood, which is what you must prove under the tender years doctrine,

you have to show she is either sexually promiscuous or a substance abuser. Hence, the media sensation of the Baby M case, because there was nothing else they could do.

The assumption that a woman is a better parent than a man, for no reason other than her sex, begins a cascade of bias that pervades the legal system surrounding family disputes. Results of this concept include:

* A man has little or no say in any matter decided by Family Court, because the court is duty bound to uphold the rights of the children, and the woman is presumed to better represent those rights.

* The woman can violate court orders with virtual impunity, because to prosecute her would be to deprive the children -- and on this I site Beck v. Beck, 1981.

* In domestic disputes, police hesitate or sometimes refuse to arrest a woman, because they would be depriving the children of the better parent.

* Mediation cannot work, because the woman has nothing further to gain.

Also, the result of this bias has turned many issues of divorce into male/female issues where they shouldn't be male/female issues. Since women nearly always receive support, the issue of enforcement of support has become a woman's issue. Since men are nearly always the noncustodial parent, the issue of enforcement of visitation time has become a man's issue.

So, members of the Commission, if the tender years doctrine is judicial reality, and you must deal with it one way or another-- If you believe it, if you believe a woman is a better parent than a man, you should say so. You should put it in the law and have it there for everyone to see. If you don't believe it, you should state in the law that the tender years doctrine is not the law of the State of New Jersey so judges will know, there will be no questions, and people will know where they stand and what to expect.

Now, as a future remedy against this sort of bias, I strongly recommend that you monitor the decisions of Family Courts, and publish yearly statistics. I'll venture to say that the reason we're here today is because you don't know what happens in Family Court. You have anecdotal evidence, you have people who complain, but you really don't know on a day-to-day basis what judges are doing in Family Court.

ASSEMBLYMAN KAVANAUGH: If you could summarize, Doctor?

DR. GRAVES: Okay. Just one more minute here.

If you can, monitor these decisions. It would be an easy thing to do. You would just need a report form to go with each case. A court clerk could fill it out with specific information, whatever it is you want to know: who got custody, how much money was awarded, whatever it is you are looking to find out. They could send this to a State statistical office, people could summarize it, and you would know what is going on.

You could see if results differ significantly from county to county, and from judge to judge. You would be able to keep track of individual judges and give objective information when it comes time to renew judicial appointments. You would have objective data if you had complaints against judges -- bias complaints, sexual bias, racial bias. This would give you some information and would give you something to go on. This would, basically, take the mystery out of the system.

ASSEMBLYMAN KAVANAUGH: Thank you very much, Dr. Graves.

Charles Forberg?

You might as well start talking; you can beat the clock. This is the only time, before she turns that switch, to get a few seconds in.

C H A R L E S D. F O R B E R G: Mine isn't that long.

ASSEMBLYMAN KAVANAUGH: Good afternoon.

MR. FORBERG: Good afternoon.

In my papers that I submitted I make one point, but I want to make one other little point. I just came here to say that there are some unique situations out there that the court should look at as unique. I happen to be in one of those. I think that a good law to make, or a good rule to make, would be -- I have it written in my paper -- whenever there is a substantial difference in the tax advantage by claiming a child for income tax purposes, the parent with the substantial advantage be allowed to claim the child.

In my particular case, I would have saved about $2400; my ex-wife would have saved about $400. I was more than happy to pay her the $400 that she would have lost. I went to court so that I could claim my child. I even told the court at the time that I would use that money strictly for the child; half of it for a college education later -- I would bank this, and I didn't care, really, if all of it was saved for a college education. I just didn't want it to stay in the Federal government and the State government, because an intact family that had the same income would have even gotten a larger tax deduction.

I was turned down, twice. First I was told, "I don't see a great enough need." The second time, I wasn't really given a reason. That is what I have in my papers.

My second thing, and I would like to say this-- When there is joint custody and the court assigns the holidays, like in my case-- I think it was very insensitive of the court that I went to, that they did not assign Mother's Day or Father's Day as holidays. I didn't have my daughter this Father's Day.

ASSEMBLYMAN KAVANAUGH: Thank you, Mr. Forbard.

Belinda McRail? Mary Jackson? Jerry Bernaldi? (names phonetically spelled) (no responses) Joan Pennington? (affirmative response).

I'm going to read down about 15 names here so I can get some sense as far as-- Is Melanie Griffin here? (affirmative response) Sandy Clark? No Sandy Clark. Marion Warpok? Jeanne Lynch? Lorraine Nagrost? Julie Trauler? D. Eger? Susan Guntharpe? (names phonetically spelled) (no responses)

I was a jet pilot; I wasn't very good at doing names.

Irene Sallen? (phonetic spelling) (no response) Ida Sanders? (affirmative response) Delores Retti? (phonetic spelling) (no response) John McGowan? (affirmative response) Jeanne Palumbo? Bruce Afran? Bill Knab, K-N-A-B, Knab? Janet Chambers? (names phonetically spelled) (no responses) Harry Mogensen? (affirmative response) You're here, Harry. Okay. Joan Milani? (phonetic spelling) (no response) John McCarthy? (affirmative response) Erick Sturn? (phonetic spelling) (no response) Valerie Geibel? (affirmative response) John Melilli? Phyllis Hoiles? Gerold Weiner? Denise Wintergrass? (names phonetically spelled) (no responses) Robert Padavano? (affirmative response) Padavano, okay. Bob Brard?

R O B E R T W. B R A I D: Is that Braid, B-R-A-I-D?

ASSEMBLYMAN KAVANAUGH: Say again? Is it B-R-A-R-D?

MR. BRAID: B-R-A-I-D.

ASSEMBLYMAN KAVANAUGH: B-R-A-I-D? Could be, typing is on low bid. (laughter) Ron Kubiak? (affirmative response)

We'll stop at those. We have more names, but we'll stop at those. Thank you very much.

Thank you, Ms. Pennington, for allowing us to go through that list. Good afternoon.

H. J O A N P E N N I N G T O N, ESQ.: Good afternoon.

Mr. Chairman and members of the Commission, I thank you for the opportunity to testify here today. I am the Executive Director of the National Center For Protective Parents, a nonprofit, tax exempt, national resource center,

located in Trenton, which was founded for the sole purpose of assisting parents who are seeking protection for their abused children in the civil courts.

I have been a family law attorney and family law specialist for 11 years. I have been certified in New Jersey as a domestic violence specialist, and sit on the board of the New Jersey Association of Domestic Violence Professionals. I am a member of the American Professional Society on the Abuse of Children, and the National Association of Counsel for Children.

Our Center has just completed a New Jersey attorney training program, where we trained and certified attorneys on custody cases which involved issues of domestic violence and child sexual abuse.

I come here today to testify regarding the failure of the New Jersey courts to acknowledge the existence of domestic violence and child sexual abuse in their handling of family law cases, and the consequences of that failure.

When I began to practice -- to represent women in custody cases involving domestic violence or child sexual abuse -- I was appalled at the decisions of the Family Courts. Now, at our Center, we receive complaints about these decisions and unbelievable horror stories from every state in the country, including Alaska, Hawaii, and the Virgin Islands. New Jersey currently rates as one of the five worst states for protecting children from incest, along with states like Mississippi, Texas, Ohio, and Pennsylvania.

New Jersey judges refuse to acknowledge the existence of incest in our society and in their courtrooms. Legislation is necessary and appropriations are required to implement mandatory training for all judges who hear cases involving domestic violence and child sexual abuse.

Twenty years ago, the issue of woman abuse became a national scandal. Battered women's shelters sprang up all across the country. State and Federal funding, as well as

funding from private foundations, assisted in the fight to free women from a daily life of terrorism. Great strides have been made in the field of domestic violence in that 20 years, yet judges are still not recognizing the dynamics of domestic violence in court decisions.

Now, consider that the issue of incest today is where woman abuse was 20 years ago. If judges still refuse to consider woman abuse after 20 years of public outcry, it must be evident to you that incest does not even exist for judges in today's Family Courts, and their decisions reflect this.

Sexually abused children cannot wait another 20 years to be heard in court. Judicial trainings are usually optional, and therefore, those who need it most do not choose to go. Mandatory training is crucial to the safety of thousands of New Jersey children.

Because judges refuse to acknowledge that parents rape children, protective parents are losing custody of their children as punishment for raising the child's allegations. The legal system has failed to protect children, and has failed miserably. As stated in his book, "On Trial: America's Courts and Their Treatment of Sexually Abused Children," Charles B. Schudson, a Wisconsin Appellate Court Judge states, "Courtroom justice is a sometime thing in which conservative, rich men make the rules and play the game for the benefit of conservative, rich men. The rest -- elderly, poor, women, minorities, and children -- are powerless."

To those who insist that the innocent are being persecuted because of malicious stories from devious children, one must respond that before judgement is made as to the innocence of the accused, we must, at least, listen to the accusation. These cases are viewed by judges as battles between mothers and fathers. They refuse to listen to the child, who, in the meantime, continues his or her daily life of torture. These children are being denied their constitutional

right of access to the courts when the protective parent is routinely denied an opportunity to present evidence and witnesses to prove the child's allegations.

Judges would rather believe that a mother would brainwash a child to make up stories than to face the fact that incest not only exists-- (timer rings)

ASSEMBLYMAN KAVANAUGH: If you could summarize, Ms. Pennington?

MS. PENNINGTON: All right. Mr. Chairman, I have been to several of these hearings, and at many of those hearings, the same people have testified and have said the same things. I am asking that I be allowed to finish my testimony.

ASSEMBLYMAN KAVANAUGH: Ms. Pennington, do we have your testimony -- a copy of your testimony -- here?

MS. PENNINGTON: Yes, you do.

ASSEMBLYMAN KAVANAUGH: Okay, because that can be made a part of the record. I feel and I understand--

MS. PENNINGTON: But we will play Mr. Rodetsky's tape continuously at every public hearing? We will hear the same word-for-word testimony?

ASSEMBLYMAN KAVANAUGH: Ms. Pennington, if you want to challenge the Chair, it's one thing. I want to keep this moving along.

MS. PENNINGTON: Okay.

ASSEMBLYMAN KAVANAUGH: I appreciate it. You've been at the Subcommittee. It will be made part of the record.

MS. PENNINGTON: I was invited to present evidence on mediation to the Subcommittee; that was not public testimony.

ASSEMBLYMAN KAVANAUGH: Yes. The Subcommittee, the Vice-Chair--

MS. PENNINGTON: I will file a formal complaint on the way these hearing have been conducted--

ASSEMBLYMAN KAVANAUGH: Thank you very much, Ms. Pennington.

MS. PENNINGTON: --and the biased manner in which they are conducted.

ASSEMBLYMAN KAVANAUGH: Thank you, Ms. Pennington.

Melanie Griffin.

M E L A N I E S. G R I F F I N, ESQ.: Good afternoon.

ASSEMBLYMAN KAVANAUGH: Good afternoon.

MS. GRIFFIN: You have copies of my testimony, but I will read as much of it as I can get through in the next five minutes, until Pat dings at me.

I work for the Commission On Sex Discrimination In The Statutes, which is an agency of the Legislature, which has been here for 16 years looking at the differences between men and women. It did a report in 1981 about marriage and family law and made recommendations that I will go through, briefly, with you here, as well as talk about some of the other issues that have come up since then.

New Jersey is one of 41 common-law property states based on the separate property model. This means that married individuals function as property owners much as if they had never married. The Married Women's Property Acts reformed the common-law view that marriage suspended a woman's property rights, but it did not create any immediate rights in assets acquired if she had no title participation. In other words, she could own property if she was informed about her rights, and either paid for the property herself, or was permitted to own or co-own the property by her wage-earner husband.

During public hearings the Commission On Sex Discrimination held in 1979 and 1980, testimony indicated a growing interest in the marital property approach of community property states. Under a community property system, there is common ownership of property, and both spouses have equal management and control rights. In fact, the Commission found that many married people view their marriages as economic partnerships and in reality operate during the marriage as they

would in a community property state. Those couples are rudely awakened to the reality of New Jersey law only upon divorce or the death of one of the partners, when it is assumed that any property held in the name of one partner was that partner's sole property. Of course, at the time of a divorce, there is no more talk of partnership. At death, the survivor ends up fighting with executors, courts, and children instead of being allowed to grieve.

The Commission concluded that the best way to equalize rights to property that couples treated as equally owned during the marriage, was to consider the adoption of the Uniform Marital Property Act, which is the most modern form of community property and has been adopted only in Wisconsin.

Certainly, this is a huge undertaking which requires the study and cooperation of the New Jersey Bar, legal scholars, and the Legislature, but its thoughtful consideration and adoption would go a long way toward conforming the rights of divorced persons to property to their understanding of their ownership rights during marriage. It would also resolve some of the conflicts that have arisen in the last decade between divorce law, which equitably distributes assets, and probate law, which gives more weight to the rights of the deceased property holder to distribute his income as he wished to do.

These bodies of law look at property very differently, and the differences have become apparent in cases, for example, where one of a separated couple disinherits the spouse and then dies before the divorce is final. Adoption of the Uniform Marital Property Act would resolve those kinds of problems prospectively and allow for appropriate estate and prenuptial counseling.

I am one of the few people who will come before you, I am sure, and ask you not to change the laws of custody in this State. That is because the recommendations of the Commission On Sex Discrimination In The Statutes in this regard have been

implemented; that is, the State allows, but does not prefer joint custody. It defers to the rational wishes of parents when they agree, and it looks at the parenting patterns during the marriage when deciding immediate custody so that the trauma of children is minimized.

The judge must account for any decision by making findings about particular factors so that the decision is not arbitrary or mysterious to the parties. More judicial discretion than is currently allowed would lead, I believe, to the playing out of judge's biases, not the welfare of children. Less judicial discretion would lead to the arbitrary application of rules that may not be appropriate to the custody decision at hand. There is, however, some fine-tuning that, I believe, is appropriate where children are at risk of abuse by their parents.

I don't believe that any parent convicted of raping or molesting any child should ever be allowed to have custody or visitation with any child. I do not think that a parent who has been found to have raped or molested his or her child should have custody of that child, or be allowed unsupervised visitation with that child or any child. Both of these situations occur under New Jersey law because of disbelief of children and women, and because of an unwillingness of courts to harm men's rights to their children, even when there is a known risk to that child.

I'll skip down a little bit, because I know I am going to run out of time, and you've heard this from Ms. Pennington, whose views I respect on the matter.

Child sexual abuse is, because of the taboos and shame that surround it, one of the great unspoken, unlitigated triggers for many divorces in this society. To the extent this Commission recommends expending any resources for the issue of child sexual assault, I hope that it will resolve the differing views of witnesses on this topic by recommending the funding of

research to determine the prevalence of child sexual abuse and the development of a permanent, competent advocacy system for those children.

Every day in this State, children are seen in emergency rooms with sexually transmitted diseases and genital injuries. They are not lying about their abuse. We need to figure out a way to intervene in these horrible crimes because we have a responsibility to protect them, and because those children are the ones who grow up to be sexual predators, child abusers, and sadistic parents.

Many noncustodial parents have come before you to complain that their child support obligations are unreasonable. Even if they are right, lowering the child support guidelines that exist is no answer. Those guidelines apply to everyone, and the witnesses who have complained have not, and probably cannot, show the majority of child support awards are excessive. Custodial parents, usually mothers, must provide for the children from an already disadvantaged position. As the United States Commission on Civil Rights found, "Should marital disruption occur, women with children, regardless of their previous economic circumstances, are usually poorer after the marriage fails."

My last point is on mediation. The Commission recommended as part of what became Public Law 1994, Chapter 94, that no mediation of the issue of domestic violence be ordered when parties seek restraining orders in domestic violence matters. The ban on mediation should be extended to cover all divorces. This ban would not mean that parties could not seek mediation, just that no one would go to mediation involuntarily.

ASSEMBLYMAN KAVANAUGH: Thank you, Director Griffin. Certainly, as you mentioned with Executive Director Pennington -- we hold both in high regard -- it's just the time schedule. We have your testimony.

MS. GRIFFIN: Yes, you do.

ASSEMBLYMAN KAVANAUGH: We have Ms. Pennington's testimony, so that we shall reflect upon that during our deliberations.

Thank you very much for being here this afternoon.

MS. GRIFFIN: Thank you very much.

ASSEMBLYMAN KAVANAUGH: Ida Sanders.

I D A S A N D E R S: Greetings, my name is Ida Sanders. I am a mother, teacher, friend, counselor, and I am a nurse by profession. I have come here today because, of all the slots I fill, there is one that I should not have to, and that is the one of a responsible father. I appreciate you taking time today to hear what I have to say.

Since 1989, I have been trying to be heard and I feel, now, someone might finally be listening. I would like to formally thank two people who, I feel, are listening and responding to me: Mr. Caldwell, who is the Director of the Essex County Probation Department (sic), and Ms. Gail, (phonetic spelling) who is my caseworker.

Since my divorce, I have been trying to get my sons' father to continue being involved in our sons' lives, and filling his responsibility as a father. It seems hard for their father to understand that children need love and child support, regardless of the situation.

Support, however, comes in different forms. Children need to be nurtured and given moral support so they will be able to fend off the ills of our society: drugs, sex, and violence. Children also need financial support to help sustain them. Regardless of the decision made by the parents, children continue to grow and strive. They need food -- and growing boys can eat -- clothes, and even they aren't cheap by today's standards -- they are not cheap to the pocketbook -- shoes, dress and tennis, and if they play any sports, there is specific footwear to purchase, and a roof over their heads. These are the basic needs. I will not even get into medical and other current needs they have.

When people stay together, the responsibility of child rearing is shared, most of the time not equally, but shared nevertheless. My ex-husband didn't just divorce me, but he has been allowed to divorce the children. Regardless of what he thinks or doesn't think of me, the children have nothing to do with the decision we made. He should not be allowed to slight the children because he is angry, upset, or whatever, with me. The children cannot be hung on a nail, or put on hold until he gets himself together, or plain old feels like he wants to do something. They continue to grow, need, and want each and every day.

Because they need, I must now try to fill two major slots: custodian and absentee parent. I work hard, long hours to give them monetary support, but sometimes what they need is emotional support. It is hard to keep a balance when you are only one person working two roles. As I struggle to fill one space, another space is a void or weakened. I am only one person, and I can't do it all. I try, God knows I do, because I do not want my children lacking the support they need because of a decision that had nothing to do with them. However, I cannot afford to continue to take time away from my job to attend court to haggle about responsibility and needs, when my children have the same needs that they would have had if their father and I were still together.

The appearance that their father has been forced to fulfill his obligation, not to me, but to them -- his children -- makes me extremely angry. I am asking nothing from their father for myself, but my children should have love and commitment from both parents, whether their parents live together or not. Love and caring for one's children should not move out with boxes, but should remain forever.

The financial support the children now receive, actually, just started recently and is somewhat sporadic. They are not sure exactly when to expect that support. It is hard

to plan when you are not sure of not only when the support is coming, but if it is coming. The same old attitude of, "Oh, it can wait," continues to be displayed. My children should not have to wait another minute for the love and support that should be theirs.

Parents are responsible for children irregardless of any decision. My situation is not unique, I wish it were. There are so many of us at different stages of this issue of support, I get tired thinking of it. But those of us who will and can speak up, have an obligation to the children to do so.

Thank you for this time, thank you for caring, and most of all, thank you for listening to my heart.

ASSEMBLYMAN KAVANAUGH: Thank you very much, Ms. Sanders.

Harry Mogensen.

H A R R Y M O G E N S E N: Thank you, ladies and gentlemen, for having me testify today. The handout you're getting is mostly attachments. There is only about a little over two pages of actual testimony, so don't be too concerned.

I am testifying today on the subject of alimony reform, which is very much in need of changes to reflect modern day realities. New Jersey statutes relating to alimony and divorce law are deficient in many respects, namely:

The current statutes do not provide for rights and protections for the second spouse of an alimony or child support obligor. They are vague and leave too much to the discretion of unelected officials. Public policy is not being made by the State Legislature, where it rightfully belongs.

Because of the ambiguity of the statutes, widely varying and inconsistent awards are made for divorcing couples with similar circumstances. The statutes assume a world which has long since passed by; that is, it assumes that the wife cannot earn a reasonable living on her own, which is not the

case today. At the time of divorce, many wives are already earning an income which provides a reasonable standard of living.

The statutes do not provide the same protections to the obligor of a divorce that are accorded to common criminals. The payer does not know when his financial obligation will end. His obligations can and do continue indefinitely, even past retirement, at the discretion of the courts.

Currently, practices of the Family Courts, together with the statutes as presently written, are having a devastating impact on the institution of marriage. The rate of marriage is declining sharply, and the rate of divorce is rising. Please see the attached charts to see how bad the situation has become.

Public confidence in the fairness of the legal system is declining. It is commonplace for young, never-married men to discuss the plight of a divorced friend who was cleaned out by the legal system.

A proposed bill to address the above problems is attached to this testimony, and is the result of many conversations with many people.

An urgently needed reform is the creation of a new category of alimony called "term alimony." It should be awarded in those cases where the lower income spouse is already making an income to maintain a reasonable standard of living. What is awarded is a specified portion of the other higher income.

Presently, permanent alimony is awarded on the length of marriage, but the statute does not give any guidance as to what the minimum length should be for this award. Permanent alimony has been awarded for marriages as short as six years, but the usual length seems to be about fifteen or more years. Occasionally, the alimony payments may last longer than the duration of the marriage being terminated.

This arrangement guarantees that the ex-husband will be financially handicapped for the rest of his life, with reduced chances to enter into a successful second marriage. If he marries a woman who is receiving alimony, she will lose her alimony, but he must keep on paying his. Public policy penalizes the second wife and favors the defunct marriage. Moreover, the ex-wife has no incentive to get remarried because she can count on the legal system to guarantee that she will get her alimony payment. Thus, permanent alimony has the practical effect of discouraging both parties from getting remarried, which is poor public policy.

The law gives the second wife no rights at all with respect to the first wife. The first wife can create a lifetime of problems for her ex-husband if she elects not to get remarried, which happened in my case. If the ex-husband should complain, he is told that his second marriage is voluntary, which ignores the fact that the first marriage was also voluntary. Public policy should not give preferential treatment to the first marriage. If anything, it should favor current marriages and not defunct ones.

An often quoted statistic is one which claims that a man's standard of living increases 42 percent, and a woman's standard declines by 73 percent after a divorce. This statistic is used to justify permanent alimony and excessive support payments. Although this statistic was refuted years ago by attorney Jed Abraham, who I understand -- if I understand the notation correctly -- graduated from Harvard Law School, so you can't doubt his credentials, it still pops up time and again like a bad penny. I attached a copy of that study, so that all the members of the Commission can read it and understand just had badly flawed that particular statistic is.

It should be noted that permanent alimony is similar to permanent welfare. Present draft legislation in the U.S. Congress would outlaw permanent welfare and proposes to limit

welfare to two years. Why should a divorced obligor be expected to provide more generous benefits than the government? The rationale for this reform is to end the cycle of dependency of welfare beneficiaries and should also apply to alimony.

There are some problems with the standard of living clause. I don't want to read it all here, but simply, you can't measure it; it's kind of a legal fiction.

Finally, another one of my particular problems is the need for reform in the area related to retirement. Current case law provides that alimony may cease upon retirement; however, this requirement is subject to interpretation by the courts, and alimony can be awarded beyond retirement if the courts should so decide.

In my case, I was ordered to pay permanent alimony, and the divorce decree did not provide for termination at retirement. Consequently, I cannot plan my retirement. The remedy is to include this clause in the statutes.

I'd like to thank the members of the Commission for their time and attention.

ASSEMBLYMAN KAVANAUGH: Thank you very much for a very informative piece of material.

Next, Julie McCarthy. Julie and John, are you here separately or together?

J O H N B. M c C A R T H Y: (from audience) Separately.

ASSEMBLYMAN KAVANAUGH: Separately. Okay.

J U L I E A. M c C A R T H Y: (from audience) His testimony really needs to be heard before mine. I'm the second wife and the intervenor.

ASSEMBLYMAN KAVANAUGH: Whatever way.

MS. McCARTHY: Do you want to hear his first?

ASSEMBLYMAN KAVANAUGH: John, do you want to go first?

MR. McCARTHY: That's fine, sir.

ASSEMBLYMAN KAVANAUGH: It's kind of a unique thing here. I didn't want to be accused of-- I always thought I was a nice guy before I got on this Commission.

John McCarthy, good afternoon.

MR. McCARTHY: Good afternoon, sir, and thank you for this opportunity.

My experience with divorce in the State of New Jersey began in 1986. Since that time, I have experienced an unnecessarily protracted two-year divorce proceeding, and a three and a half year legal debacle in an attempt to reduce alimony based on seriously changed financial ability. Given six years, innumerable motions, six attempts to incarcerate me, and appearances before six judges, I feel I have a good grasp of the problems with the system as it now stands.

There are three areas that need to be studied, analyzed, modified, and/or changed so that the law serves all equally and justly. Family Court, in dealing with divorce, is operating in a vacuum -- at least in Monmouth County, the sole area of my experience.

The first area is the law itself. Based on my own experiences and watching other cases as I sat waiting for mine to be heard, it would appear that the approach taken by most judges is that the man is guilty until proven innocent. Times have changed--

ASSEMBLYMAN KAVANAUGH: John, I'm not going to take away from your time here, but I just looked here--

MR. McCARTHY: I'm going to skip over much of it, sir.

ASSEMBLYMAN KAVANAUGH: Oh, okay, because you have about 15 minutes of testimony here.

MR. McCARTHY: Right. I'm going to skip over much of it, sir.

Women rub elbows with men in the workforce at every level. Women have rightfully demanded to be and are more independent than ever, except when it comes to divorce. The

courts' general approach is that women are defenseless victims who have been put upon by a wicked male, and it substantiates that stand by quoting prior cases as precedent.

The second area is the judges. The six judges I have appeared before are middle- to late middle-aged men. They have obviously been on the bench for some time. They are inundated with work and are so engrossed with their tasks that they are isolated from the world they live in and make judgements for and about.

They have very comfortable salaries, generous benefits rarely matched in private industry, and lastly and most incredibly, they are tenured. Regardless of their performance, it is extremely difficult to remove them from the bench. How can they understand conditions in the real world? What do they know about today's economy or work trends? I am convinced that they never read the headlines or the business section of a paper, and never listen to CNN. I am sure that this statement is not true of all judges, but my experience of being before six indicates that five of the six appear to operate in this vacuum.

What is the solution? Simplify divorce laws and procedures allowing panel and subject negotiation and settlement -- if the lawyers will permit it -- keeping all but the most difficult and complicated cases out of court.

The third area is the lawyers. With all due respect to those of you on the panel who are lawyers, in my experience, lawyers are by far the biggest obstacle to settlements between litigants in divorce cases. (applause)

I must make it clear now, that my statements do not apply to all lawyers, there are many who uphold the rules of professional conduct. There are, however, many who do not. I have had personal experience with lawyers who tell outright lies in court. If I do that, I perjure myself and I am subject

to fine, imprisonment, or both. I have been the subject of twisted and deviated statements that served no purpose other than to create more litigation and more legal expense.

The worst part of this is that the good lawyers won't blow the whistle on the bad lawyers. There is this old boy syndrome that seems to forbid the legal community from policing its own. If this panel does nothing else, it must address this portion of the problem.

I am not going to go into the details of a protracted divorce, but I am going to bring to you a rather amazing story about postdivorce. I was an executive in the textile industry in 1990, when my company was bought, merged, downsized, and I lost my job for the first time in my life. I was earning about $95,000 a year. I was paying $30,000 a year in alimony. It took me six months to get another position, and I was hired over 268 applicants. The position I took was comparable to what I had come from, but the company closed its doors within three months. I have been unable to get a reduction in alimony.

The result, the summation of all of this, is that legal fees for me -- trying to get the reduction in alimony, nothing to do with the divorce -- are in excess of $30,000. Legal fees for Julie McCarthy, who was dragged into the case and whose assets were seized--

ASSEMBLYMAN KAVANAUGH: Whose time you're using right now.

MR. McCARTHY: --are $8000. Legal fees for my ex-wife are in excess of $40,000. Estimated loss of time to a new business is between 90 and 120 days.

That's all, sir.

ASSEMBLYMAN KAVANAUGH: You can stay there, if you care to.

Good afternoon, Ms. McCarthy.

MS. McCARTHY: Good afternoon.

I'm here as a second wife, and I have been dragged into a postmarital, alimony reduction fiasco that has gone on for three and a half years before six judges. I have been slandered by a judge's letter of opinion. My personal premarital assets have been seized and given to the former Mrs. McCarthy. I was forced by the court to sign that over. My bank accounts have been frozen; my business account was frozen.

UNIDENTIFIED MEMBER OF AUDIENCE: (negative comment)

ASSEMBLYMAN KAVANAUGH: Please, no comments from side bar here.

MS. McCARTHY: My joint account is still frozen. I was never allowed to give testimony before the letter of opinion by Judge Robert Coogan was read. I was slandered; I was called deceitful. I was called in cahoots with my husband, because I own a business and he happens to be an employee there.

This system has got to change. I have absolutely no rights within the system. I'm the second wife. I shouldn't even be involved in this, but I am. My personal assets, which were premarital, and clearly shown as assets from my house -- which was a premarital asset -- have been seized and turned over. I have not only suffered the loss of the entire investment, but to liquidate the investment in order to satisfy the court, I lost almost $5000.

This system is absolutely incredible. It has torn me apart. I've suffered health problems, financial problems. My business has suffered. I'm a professional designer. I should not be made to support an ex-wife. Also, this system purports that the ex-wife should be supported in the style to which she was accustomed. Wrong. I'm sorry, no one is owed anything in this world. That is why our welfare system stinks. (applause)

ASSEMBLYMAN KAVANAUGH: Please, you're just detracting from her time.

MS. McCARTHY: Well, actually I'm done. I just want to see some justice done as an individual. I have had to hire my own lawyer. I have had to use my own personal finances against what the court has said. Every lawyer who has heard this case has said, "I don't believe this." Well, I don't believe it either, but I'm caught in the middle of it. What do I do? Where do I go? That is why I'm here.

Thank you.

ASSEMBLYMAN KAVANAUGH: Thank you very much. We have your written testimony, both yours and Mr. McCarthy's. We'll take it and review it. Thank you both for being here.

MR. McCARTHY: Thank you, sir.

ASSEMBLYMAN KAVANAUGH: We move next to Arthur Moran. Arthur? (no response) Dr. Geibel?

V A L E R I E H. G E I B E L, Ph.D.: I'm here.

ASSEMBLYMAN KAVANAUGH: Good afternoon, Doctor.

DR. GEIBEL: Good afternoon. May I start?

ASSEMBLYMAN KAVANAUGH: Certainly.

DR. GEIBEL: This is a personal story. I was 30 something and left with an infant daughter, two young children, and stage two breast cancer at the start of my divorce. I tried to carry on while selling my home of eight and a half years -- finances were difficult -- pull through two operations and chemotherapy, and find a full-time job, all with no family to offer support -- my friends were wonderful. Nothing in my life to that point had prepared me for this experience or what was to follow in the courts. I can tell you it was no fun.

My husband, an attorney himself, suggested that we work out an agreement between ourselves concerning our property and children. What at first seemed relatively straightforward, later turned into a morass involving legal tricks, huge expenses, and a child custody battle. I spent over $5000 writing and revising an agreement which was never discussed in

its final form. Being by his choice in default of the court, my husband hired an attorney and began litigation, even though forwarding one consent order would have been more expeditious.

At this point, my first attorney -- whom I now owed an additional $6000 -- said she could not effectively represent me. I had hired her for legal advice and to draft an agreement, not to litigate in Morris County, she said. I was referred to a local attorney and required to pay a retainer of $3500. I took a cash advance on my credit card to pay it, as I had to do from time to time to cover living expenses. My husband dropped me from his health insurance plan on December 1, 1993, even though it would not have cost him a penny to provide coverage. He also arbitrarily reduced his voluntary child support payments by $1500 a month without prior notice or explanation.

My new attorney told me that I was beginning the divorce process from square one, again. This time, however, I had an outstanding debt of approximately $15,000. There were many ill feelings between myself and my spouse. I had experienced a great deal of stress, and my children were badly frightened.

I will never forget what my youngest daughter -- who entered kindergarten this fall -- said, as I was packing her for a weekend with her dad one time. "But mom, I don't want to go to his house. We hate daddy, don't we?" This, I feel, is the message my involvement with the Family Court system has communicated to my son and daughters. It encouraged each parent to fight the other and depleted our already strained financial and emotional resources. My children, innocent bystanders to an unfortunate battle, suffered emotional pain on a daily basis.

Today, more than three years later, I am in a desperate situation. My husband still is refusing to negotiate, this time refusing a four-way conference. It is to

his advantage to delay legal proceedings as long as possible, since he has the emotional and financial support of his family. I have neither. I do not have a pendente lite order in effect, since my first attorney advised me to discuss rather than litigate. My second attorney is preparing one, but court action takes time. I have less than $60 in the bank and many outstanding bills. I'm beginning to be bullied by collection agencies, and I now cannot afford my COBRA health insurance which costs me $267 a month. My attorney told me I would probably have to pay another $3000 to $4000 for settlement, much more if it goes to trial.

I resent that no one has ever reprimanded my husband for draining my financial resources, and then arguing that he can provide for the children better financially than I. My husband and I did benefit from court provided child custody mediation eventually suggested by our attorneys. We have reached a tentative agreement on that issue, which he still has not signed. However, I was told by my husband that if I moved away from Madison because of debts resulting from this case, he would reopen the child custody issue.

In summary, I believe that involvement in the Family Court system focused up both on what we wanted to win or had to lose, rather than on what the process was doing to our children. There should be a safe way for ex-spouses to express their anger and frustration and work out problems without dragging each other through the courts. All it seems to take, in my opinion, is one spouse who wants to hurt the other, and it seems to me that everybody loses except the lawyers. Nobody, so far, has been willing to slap an attorney representing an attorney on the hand, even when children are hurting.

In conclusion, I would like to summarize my opinions:

* I think that the spouses of attorneys seeking a divorce -- and this is male or female -- should have access to reasonably priced but high quality legal advice.

* Legal tricks and financial resources should not be allowed to determine who wins in court and who is the better parent; something should really be done to level the playing field. (timer rings)

I have just a couple more.

ASSEMBLYMAN KAVANAUGH: Yes, I'm following along. Go ahead.

DR. GEIBEL: I feel that someone must be involved from the very beginning to protect the most vulnerable and innocent victims in each divorce case, the children.

* Some kind of real sanctions should be imposed on any spouse who drags his kids unnecessarily through Family Court, perhaps even repeatedly.

* Certain family assets should be protected from the lawyers and courts, such as equity in a primary home, children's college funds, or generally, any cash reserve which guarantees the financial well-being of the separated family.

* I like the idea of a cap on divorce costs, imposing a reasonable financial limit beyond which costs could not go.

Thank you very much for giving me the opportunity to tell my story. (applause)

ASSEMBLYMAN KAVANAUGH: Thank you, Doctor.

Next, Robert Padavano.

R O B E R T P A D A V A N O: Thank you. Good afternoon.

ASSEMBLYMAN KAVANAUGH: Good afternoon.

MR. PADAVANO: My name is Robert Padavano. I am the President of the Fathers United for Equal Rights and the Women's Coalition. I am an Ocean County volunteer of the court, and I also sit on the Ocean County domestic violence working group.

I'm a resident of Ocean county, and was divorced in Ocean County. I guess if everything the people behind have said so far wasn't true, to some extent, we probably wouldn't all be here. I tend to agree with a lot of what was said, and

I think, pretty much, the system does create a lot of the adversary between the two people, and a lot of the problems like this woman just went through herself.

But I would like to talk about some positive things for once, maybe. I don't hear too much of that here. Since my divorce, I became pretty deeply involved in how the system worked. I did a lot of research, I met some people, and I became involved in my group. I see a lot of changes happening in Ocean County. I don't hear too many bad things coming from too many people who I talk to and deal with about Ocean County.

I work inside the courtroom -- well, the courthouse, now. I work with Judge Fall; I work with Bob Mackie; I work with family intake. I work with a lot of people there. We do mediation and workshops. We do parenting and divorce workshops, and I see that they're starting to talk more like parents and individuals rather than male and female. They're starting to talk less about gender and more about parenting. We tend to try to preach to all our members that we're parents, we're not visitors.

In the past two or three years, I have been sitting in the domestic violence working group and I've heard a lot of things about how women are abused. I tend to agree with a lot of what I hear. I mean, I've known quite a few women. I knew one who was killed recently -- within the last year -- from domestic violence, because she wasn't protected properly. But I also see a lot of abuses to the system. That is pretty much why Judge Fall invited me to sit in in that group; to try to bring my perspective and what I hear from the women and men in my group of what is really going on.

But, like I said before, I see a lot of positive things happening in Ocean County. I hear people talking-- I hear family intake members and the mediators talking about parenting time and not using the word custodian, custodial, and

custody, because they feel it is too adversarial and gives possession of the child to one parent, and the other parent doesn't have anything, or any say. It makes them feel like they don't have any say.

A lot to do with what goes on, and how people tend to react to things, is how they feel about it, how they feel they're being treated by the courts, and by the people who they deal with in the courts. If we could take that bias out, take out that adversarial content, and make people feel more comfortable. I hate to say comfortable because divorce is not a comfortable situation to begin with. But if we could make that more comfortable for them--

Maybe bring more mediation into it, like everybody has been proposing. I think it would help. I think it would truly do away with a lot of the problems we're having from the people who are sitting behind us. It would do away with a lot of the nonpayment of child support. It would do away with a lot of the not having access to your children -- we see a lot of that, too. But I do see a lot of good things happening in Ocean County, and I hope that, maybe, this Commission could possibly contact the people who work in Ocean County in the courthouse and ask them what they're doing different and how that can affect the other counties, like Monmouth and Middlesex. I know a lot of the people behind me, again, come from a lot of counties outside of Ocean. They're having more of the problems outside there than we are having in our county.

I'd like to see more involvement with the systems and the things that we're doing in Ocean County throughout the State. I think it would be a big plus and a big help. I'm going to keep this real short, because I think I said everything I have to say, and I know you guys have a lot of people to talk to.

I want to thank you for letting me speak today.

ASSEMBLYMAN KAVANAUGH: Thank you very much. I was only hoping that you were going to comment about the outstanding attorney who is on our Commission here, Frank Lewis, from Ocean County. Frank has done an outstanding job, and he has certainly filled us in on Ocean County.

MR. PADAVANO: Okay, thank you.

ASSEMBLYMAN KAVANAUGH: Thank you very much.

Next, Robert Braid.

MR. BRAID: Mr. Chairman, members of the Commission, I would like to take this opportunity to thank you for granting me the time to come here and testify today.

I want to address the issue of the process for determining child support in the State of New Jersey. I am President of the New Jersey Council for Children's Rights' Political Action Committee. I'm on the faculty of Atlantic Community College. I teach--

ASSEMBLYMAN KAVANAUGH: Could you pull the microphone in closer to you, please? (witness complies)

MR. BRAID: I teach economics and management at the college. Any time you hear that a parent is not paying child support, you automatically conjure up an idea of a deadbeat dad. It's very difficult for most of us to understand how a parent, regardless of the differences they have with the other parent, would not be willing to support their children. You make that assumption, or you form that attitude, and it's based on an assumption that you rarely question.

The assumption that you rarely question is that you automatically assume that the child support that has been ordered is rational, reasonable, and was developed by a judge who has no vested interest, other than what is in the best interest of the child.

I hope to demonstrate, in the relatively short period of time that is due us today, the fact that there are many cases -- when you follow the child support guidelines that are

used in the State of New Jersey -- that can contribute gross inequities. When we get involved in discussing this it tends to get, from time to time, a little technical -- when we try to use numbers -- and it's a little difficult kind of a forum to do this in. However, I have left copies of several articles -- with Pat -- I have written on this, published in professional journals. I'm sure she'll see that you all get copies of those.

In addition to the articles I've published, we also have published-- NJCCR has a position paper on child support in the State of New Jersey. I collaborated on that with Richard Martin, who is the President of NJCCR.

While I'm talking, if there are any questions that come to mind, if there is something you don't understand, don't hesitate to break in. I am accustomed to interruptions when I am talking about this particular topic.

If I may begin by identifying some of the global -- or problems associated with this particular problem. The first one that I think is very critical is, nobody, but nobody, but nobody has defined what in the world child support is. When I first got involved in this, I had occasion to call a judge's law clerk and asked him if he would tell me what they meant by child support, if that was what I had to pay. He hadn't the faintest idea.

Then I decided to escalate and go to the other end of the spectrum. I sent a letter to each one of the Justices on the Supreme Court of New Jersey, and asked them to define what their idea of child support was. I got one response. The one response I got said, essentially, I would have to get a lawyer. It wasn't in their position to give legal advice. (laughter)

This is a very critical issue. What do you mean by child support? There are two broad approaches to this. One is called an "accounting" or a "per capita approach." The other one is called a "marginal" or an "incremental approach." Let me give you a little example to help clarify this issue.

Suppose you have a one-bedroom apartment, and it costs $400 a month. If, in fact, a custodial parent needs a two bedroom apartment, and the two-bedroom apartment costs $450, then that extra bedroom, obviously, was for the child. So there is an incremental cost for having the child in the household, and it is $50 per month. However, the per capita approach would suggest that you take the $450 and divide it by two. That means it would be $225 as the cost of having the child in the apartment. You can see there is a significant difference between $50 and $225. This is just-- (timer rings)

Is that five minutes already?

ASSEMBLYMAN KAVANAUGH: Time flies in this building. (laughter)

MR. BRAID: Especially when you're having fun. (laughter)

ASSEMBLYMAN KAVANAUGH: But if you could summarize?

MR. BRAID: Let me identify very quickly that unless custody, visitation, and child support are fairly established, there is no moral authority for enforcement. Child support orders that are objectively unfair and arbitrarily imposed, only lead to increased civil disobedience. Defending yourself in court is an expensive proposition at the going rate of $150 to $200 a hour, and when you look at the other partner in this suit paying another $150 to $200 a hour, you're talking $300 to $400 of assets being absorbed just by the legal profession. I don't think anyone here would suggest that this is in the best interest of the child; to see the parent's assets being dissipated that quickly.

ASSEMBLYMAN KAVANAUGH: All right, sir. In fairness to all-- We do have your testimony here, and I've looked at one of your stories. Some of my lawyer friends will comment on your picture there, the cartoon. But thank you very much for coming.

MR. BRAID: Let me offer, if any members of the Commission would have any questions, I want them to feel perfectly free to call me if they don't understand any of the documentation. If you want to duplicate any of the material I gave you, I want you to feel perfectly free to duplicate it without contacting me.

ASSEMBLYMAN KAVANAUGH: Thank you very much. Pat Nagle is our liaison, so if you want to contact her, certainly, feel free to. Thank you very much for being here and bringing your testimony.

Just let me ask one thing: did Arthur Morad, did he happen to-- I don't want to skip him if he's here. (no response) Is there anyone here who had not testified previously? (affirmative response from audience)

Have you given us your name?

D O M I N I C K R. R O M A N O: Yes.

ASSEMBLYMAN KAVANAUGH: The name is?

MR ROMANO: Dominick Romano.

ASSEMBLYMAN KAVANAUGH: From the New Jersey Council for Children's Rights?

MR ROMANO: Yes.

ASSEMBLYMAN KAVANAUGH: You have not testified previously?

MR ROMANO: No, I haven't.

ASSEMBLYMAN KAVANAUGH: All right, would you come forward, please?

Good afternoon.

MR ROMANO: Good afternoon.

First I would like to thank the Commission for allowing me to speak. Initially, you can see that I have attached a letter to my testimony that my daughter had written to my wife. Prior to writing that, she had discussed this with me. We've heard a lot of things here over the last year -- I'm sure you have -- and there is one thing that I haven't noticed,

even here today; there hasn't been much focus on children. They are the innocent victims of this whole process, regardless of whether the spouses are male or female.

At the time my daughter wrote this letter, my former wife and I had been divorced for over a year. Our relationship at the time, and to this day, is one of the best postdivorce situations I have yet encountered, yet my daughter's strongest desire was that her mother and father be together. The problem is, in many divorce situations, spouses are entwined in such bitterness and vindictiveness that they, therefore, lack consideration for not only each other's feelings, but mostly for the feelings of their children.

These types of situations prevent most children from expressing the type of feelings that my daughter has expressed in this letter, feelings that will stay buried deep within themselves and that will affect them for the rest of their lives. We are only kidding ourselves, as adults and as a society in general, if we continue to be so naive as to not understand that these are our children's strongest wishes; that their parents stay together. Anyone outside my daughter's immediate family would see her as a happy, normal child, yet at quiet moments, when she has time to reflect, these emotions would surface.

My daughter and many of the children whose parents have testified before you, will never have their deepest wishes come true. No one here can ever put the total blame on the judicial system or those who have established the laws that govern the Family Courts. We must all take responsibility for the slow destruction of the American family. We have allowed our society to foster a complete lack of commitment not only in marital situations, but in all aspects of our daily lives. As long as we have a system in place that allows one spouse to completely ignore the commitments -- to her children and her

family -- they have made to their partner and to their family, we are teaching our children that we have truly become a throwaway society.

We must create a system where the process would begin, at first trying to keep the family together, teaching them how to work out their problems, and most importantly, to understand that they must have a strong commitment to their children above all else. Our children have no say as to whether they come into this world. Parents must be made to understand not only how important the decision for having children is, but how devastating divorce is to them.

Therefore, although the solution is not an easy one, I feel the first step must be to take the problems spouses face in marriage completely out of the legal arena as much as possible. It is fascinating to me that it is easier to get a marriage license in this State than it is to get a fishing license.

There was a time in our country when spouses went to their pastors, priests, or rabbis for such counseling. Nowadays, however, religious commitments and different values have changed that drastically, but its value is still important. With trained, licensed professionals, I feel couples can, in many cases, be made to see the importance of their commitment to each other and also the devastating effect of divorce on children and themselves. This can be done by giving couples statistics not only of the emotional ramifications, but of the financial devastation of the divorce process.

When a couple has come to a point-- Therefore, although the solution is not an easy one, I feel the first step must be-- All right, I've already read that, I'm sorry.

When a couple has come to a point where they feel their marriage can no longer work, and one of both of the spouses want to file the divorce, it should be mandatory that

they enter counseling. This counseling, I feel, can only be done by qualified, licensed professionals. In speaking to many marriage counselors in the field, it is, in my opinion, that at least two out of ten marriages may be saved completely, and that at least the couples who come out of the counseling will come out of the counseling with a better understanding of themselves, their children, and how best to deal with the postdivorce situation.

ASSEMBLYMAN KAVANAUGH: If you could summarize, Mr. Romano?

MR ROMANO: Sure.

Over the past year, you have heard testimony from men, women, father's rights groups, and feminists. I'm sure the horror stories have been many. It is for that reason alone that I am here. I am a custodial father, who over the years has seen the devastation the current system has helped create. As I have stated before, the judicial system cannot be held responsible for these problems -- fully responsibile. It must be understood, though, that it does add fuel to the fire. We have become a nation of remedies. We tend to wait for problems to happen and then try to correct them. What we should have is the foresight to create an atmosphere where problems are prevented and not dealt with. Children of divorce, in many cases, go on to have similar problems in their relationships. We must once again value the institutions of family, marriage, and parenting. I dream of a day when a child will walk up to a judge or anyone involved in the Chancery Division of the courts and say, "Thank you, thank you very much for keeping my family together."

Thank you. (applause)

ASSEMBLYMAN KAVANAUGH: Thank you, Mr. Romano. You must be doing something right, I have a Commissioner clapping.

Yes, sir?

J E F F R E Y B A R N E S, D.M.D.: (from audience) I just want to change a previous testimony that I made. I had testified before, but I have to change my testimony.

ASSEMBLYMAN KAVANAUGH: What I'm going to do, in fairness for those who came-- We've gone through everyone who had not previously testified. Some of you, in previous testimony, have omitted some part that you wanted to say. In fairness to the Commissioners, we have another meeting coming up, we have to gather regarding that. I'm going to give you two minutes. I think that is fair. Two minutes for those who have previously testified.

Start with Stuart Way.

Please hold to the two minutes. When you hear that bell, there is no summary, it's over.

S T U A R T W A Y: Starting now? (affirmative response)

Thank you very much. The first thing I want to point out is that I recently, at the request of a member of this Commission, came across a document called, "Child Support Guidelines: The Next Generation." I would like to firmly point every member of this Commission to chapter 11 of that document. I'm not a big fan of any sort of guidelines, but that one even works the way I look at it. It makes sense.

I think that the time to prevent much of these problems with people in the legal system -- which seem to be spawned by their lack of understanding of what's going to happen -- is in high school. Grab them while they're students, teach them how family division works then, so they'll avoid the pitfalls.

Again, I can't stress enough: mediation, mediation, mediation, mandatory mediation. The courtroom is the last place a family dispute should be resolved, and only when it can't be resolved anywhere else.

Thank you.

New Jersey State Library

ASSEMBLYMAN KAVANAUGH: Thank you very much, Stuart.

Thomas Wisniewski, and also, if Dr. Floch would come up?

Mr. Wisniewski.

THOMAS WISNIEWSKI: Tom Wisniewski.

ASSEMBLYMAN KAVANAUGH: I know. I recognize it.

If the doctor would sit next to you there, then when you get done he can start testimony, so we can have this moving. After Dr. Floch will be Andy Kozak.

MR. WISNIEWSKI: Okay, real quick.

A few weeks ago, I attended a presentation given by a New Jersey Family Court Judge. He said something I totally agree with. He said the final judgement of divorce should really be called the beginning judgement of divorce. The reason for this is, litigants usually return to court so many times for one reason or another, which is usually related to money or visitation. Now, why is this?

First, the final judgement of divorce is not a quality document. With the adversarial system that we have today, the best liars get the best deals. Also, there is no consistency, similarities -- what have you, what have you. We've said it all before.

Recommendations, what we should do to correct the current system: We must educate the litigants, institute strict rules about what documents litigants must provide to get a divorce, and change the current laws so that the support is fair, visitation is encouraged, and I recommend the following.

First, education: Before anybody can get a divorce -- to go through the divorce process -- they must attend a how to get a divorce class. The class should explain how the system works, what is expected, what documents are needed. In all cases, I recommend if there are no classes for the person, no divorce is given.

Second, rules; what the litigants should bring to the divorce. They should provide proof of earnings for support calculations, and they should provide proof of marital assets and liabilities for equitable distribution. In all cases, no proof, no divorce.

Next, support: Support guidelines should be fair and followed, without exception. No orders should be outside the guidelines-- (timer rings)

ASSEMBLYMAN KAVANAUGH: Thank you, Mr. Wisniewski.

H O W A R D F. F L O C H, M.D.: I guess you want me to go right into this? I'm going to be talking a mile a minute. I just-- (portion of testimony lost due to electrical malfunction) --most don't like to use if it is inconvenient for them. (portion of testimony lost due to electrical malfunction) -- this Commission in September, I've had the farce of an oral argument on an appeal on my case. Again, the law was not-- (portion of testimony lost due to electrical malfunction) --poorly of anybody-- (portion of testimony lost due to electrical malfunction) --troublemaker. There is no point in revising divorce-- (portion of testimony lost due to electrical malfunction).

A N D R E W J. K O Z A K: (portion of testimony lost due to electrical malfunction) The three psychiatrists said the judges should be at the hospital, not me. (timer rings)

ASSEMBLYMAN KAVANAUGH: Thank you very much, Andy. I hope that things will go better for you.

B H A G W A N "B O B" D A S S: I'm here to speak for about 1100 people; 1084 to be exact. I have a petition signed by--

ASSEMBLYMAN KAVANAUGH: You only get two minutes though, Bob. (laughter)

MR. DASS: Well, I was going to multiply 1084 times two.

ASSEMBLYMAN KAVANAUGH: Yes, well, my mother didn't raise a dumb kid.

MR. DASS: Here is the original with all the signatures, and a set of copies. The original has three additional sheets that have not been copied into the copy sets.

ASSEMBLYMAN KAVANAUGH: All right, you're on.

MR. DASS: In this petition, the undersigned people are supporting the cause of children's birth rights for equal access to both parents. We feel the present laws of divorce essentially provide for the economic needs of the affected children, and do not adequately address their emotional or developmental needs.

Studies show that children need both parents and that they suffer a great deal of psychological distress and long-term problems when a parent is no longer a part of their lives. Frequent, regular, reliable contact with both parents is very critical for their proper growth and development.

Traditional sole custody is creating a generation of children who are being damaged psychologically. We, the people who have signed this petition, urge the Commission to sponsor appropriate legislation to protect the best interests of the children, so as to provide and mandate presumption of joint custody and mediation (timer rings) as a method of resolving parental conflicts and for providing equal access to both parents for the children; also, to provide maximum parenting time for the children to be with their noncustodial parents.

ASSEMBLYMAN KAVANAUGH: Thank you, Bob.

MR. DASS: I have one statistic that might be of some interest to -- statistics from the U.S. Census Bureau that might be of some interest to all the members. Very quickly--

ASSEMBLYMAN KAVANAUGH: If you want to distribute it, make a copy of it, but we have to adhere to the time limits. I've done that previously; I don't want to make any exceptions.

MR. DASS: All right. It is included in my cover letter that I have given to you.

ASSEMBLYMAN KAVANAUGH: It is?

MR. DASS: Yes, it is.

ASSEMBLYMAN KAVANAUGH: Okay. Thank you very much.

Daniel Hudson?

UNIDENTIFIED MEMBER OF AUDIENCE: He's outside.

ASSEMBLYMAN KAVANAUGH: Okay. He can hear me, he'll be coming. Richard Gorish? (affirmative response) Daniel John Hudson, Richard Gorish, and also we have Jeffrey Golden.

Jeffrey, do you want to come up and sit next to Richard, so we'll move through?

Richard, you're on.

R I C H A R D G O R I S H: Okay. Thank you. I'd just like to say I've been following the Commission pretty much. Overall, I'd just like to, more or less, summarize. What I have to say has already been said before, but I want a focus on it. (portion of testimony lost due to electrical malfunction) Of course, usually the custodial parents, they want more stringent types of collection and enforcement.

Noncustodial parents want access and to be able to pay reasonable support. But both agendas, male and female, everyone seems to agree that we have to get the litigation out of the courts. We have to get into mediation. The attorneys and the judges need accountability, that is a fact.

No matter what comes of this Commission, whatever you suggest, whatever you write, whatever you put in law, it means nothing -- it means absolutely nothing -- unless it is obeyed and enforced by the judges. Judges sometimes do not follow the law. What they need is an accountability. What I have here is just an idea about accountability. Perhaps a clerk of a court could furnish from the court a Board of Health Division to vital statistics-- (portion of testimony lost due to electrical malfunction) --to the entry of the final orders, and give some information that can be surveyed and studied. For example, the petitioners-- (timer rings) Everything from

the outcome to what was decided, to was there an appeal and have a trend read on any particular judge.

ASSEMBLYMAN KAVANAUGH: All right. Richard, your testimony is-- Do you have it in form there?

MR. GORISH: I have a form for some ideas on accountability, yes.

ASSEMBLYMAN KAVANAUGH: If you would make sure that Pat gets a copy, or send us a copy so we have it. Thank you very much.

MR. GORISH: Thank you.

ASSEMBLYMAN KAVANAUGH: Jeffrey.

J E F F R E Y G O L D E N: I would have preferred to be able to give all of my testimony. I'm not going to be able to do that in two minutes. I did give a written copy to everyone.

I also attended all of these hearings. My comments are a summary of what I've seen, and also some recommendations. But there are two issues that I tacked on to the end of my testimony that I do want to give verbally right now.

During these hearings we have, through our political action committee, continued to lobby our legislators for changes we would like to see in the laws affecting family relationships in New Jersey. Their response has often been to refer us to this Commission, and to say they didn't want to introduce any new legislation until after this Commission's work had been completed. I can understand and respect those legislators' positions.

But right in the middle of this Commission's term, someone introduced legislation to revoke the driver's and professional licenses of parents who are in arrears in child support. This makes almost as little sense as jailing parents for child support arrears. If a parent doesn't have the money to pay support now, how will he be able to get it when he is prohibited from working in his trade or profession, and even from commuting to work?

If the State wants to promote payment of financial child support, they should make it easier for parents to pay, not harder. Require employers, including government, to give hiring priorities to parents who have child support obligations. (timer rings) Provide low-cost housing and food stamps to parents who have to choose to either pay the rent and eat, or to pay the child support, and provide education and job training benefits so parents can increase their earning capacity.

Just one last thing, also. Some of those who have testified here have used this Commission as a forum for personal attacks against their ex-spouses. I was surprised that this testimony was allowed, especially when the ex-spouses -- who were also present -- were not allowed to respond at that time. We're all here because the present laws of divorce are not working and are not serving the people. Nothing will be gained by personal attacks against others. We have to focus--

ASSEMBLYMAN KAVANAUGH: Jeffrey, you've run over your time. So, I want to thank you very much. We've tried to-- I have to rebut that one thing, because no one has ever been denied the opportunity to speak -- put your name on the list and you talk. But thank you very much.

Now, John McGowan, who was out in the--

John?

J O H N E. M c G O W A N: (from audience) Yes.

ASSEMBLYMAN KAVANAUGH: Come forward.

John has not testified previously. John, you have five minutes.

MR. McGOWAN: Thank you. I'll use part of that.

ASSEMBLYMAN KAVANAUGH: Good afternoon.

MR. McGOWAN: Good afternoon, everyone. I have a copy here of my testimony for everyone. Unfortunately the first page--

ASSEMBLYMAN KAVANAUGH: If you would talk into the microphones, please?

MR. McGOWAN: Unfortunately the first part of my first page has a glitch in it. It can't be seen at the bottom, but the words around it are pretty much similar. I'm going to read directly from this.

Good day, fellow New Jerseyans. In all probability, I will say nothing here today that is-- Excuse me. In all probability I will not say anything new here today, and that is perfectly acceptable. Acceptable because, if I did say anything new or revolutionary, then this Commission and those who have testified and worked for constructive change have not done their job.

A job that should be considered an important one, as it is a first step in the processes that will, hopefully, change the antiquated, cumbersome, and many times useless laws regarding divorce and its tangencies here in the State of New Jersey; a change for the better and for the long term. However, in that change there needs to be a balance struck. A balance not unlike the scales on that of the icon of justice familiar to us all. A balance which supposedly judges on the merits of the individual case, and the true realities of the information presented and the information available. Knee-jerk reactionaryism will not do.

Many times in the judicial system (portion of testimony lost due to electrical malfunction) American culture: There is a great miscommunication of information, and many times, misinformation pervade our culture on all levels. For example, American culture does not value touching -- in its myriad formats -- for example, holding, caressing, even thoughtful expressions, and rejects its use after the early ages of an individual.

As we know, or should know, this simple act of touching each other communicates a wealth of information. It communicates our acceptance, respect, and/or rejection of

another. That loss in our culture is probably responsible for a great deal of angst and undoubtedly has caused an added burden on our courts.

We no longer sit and talk to each other -- read, touch, that is -- everything is done at arm's length or further, especially in litigation. I have (portion of testimony lost due to electrical malfunction) discuss that these -- child support, for example -- Family Court processes are nonadversarial, but have sent letters to, "Dear Litigants," how oxymoronic. Further, there is an air in our courtrooms of superior/inferior nature, purposefully designed, it appears. For example, the physical setup denotes that immediately. The judge is on a raised platform separated by an imposing desk. He or she is followed in by an armed public servant. A servant who places his hand on his armament if a litigant -- usually a male -- even begins to raise his voice in protest or exclamation to court comments a judge has said or nonverbal -- physical or visual.

Additionally, those who work within the judicial system, be they clerks or administrators in probation or the halls of justice, have stated that the courtroom is the judge's private world that he runs, and they work for the judge. Well, I beg to differ. It is our courtroom. We pay for his or her salary, his or her perks, his or her decisions, wrong or right. Further, we, as concerned parents, are held accountable for all our action -- our fault or not -- both in the present or far in the past.

There is no such accountability or liability for past, present, or future problems often caused or exacerbated by decisions made by Family Court judges or the judicial or social services that carry out his court orders.

Tangential to this, for example, is a case that I am very familiar with. The defendant was told in Family Court that his five-year old child would not be dragged in to testify

in a custody hearing -- a point which I fully understand and can agree with -- however, the child was seven and a half years old at the time, and an interview had been requested. You can look on Rule of The Court, 5:8-6.

Unfortunately, there is not enough time to continue this train of thought here today because of limits of time. But it is hoped that restraints of time will not foreclose the information that has begun to surface here today.

It is imperative that the learning take place with regard to perceptions and to the realities that are presented. It is imperative that judges in Family Court are taught the proper relationship of subjectivity to objectivity, and that one cannot be fully separated from the other. It is imperative that judgements of any kind be aware of the biases -- inclusive of racial bias as well -- inherent, and it is important that the State of New Jersey include more minority representation. As well include -- as has been the case -- those who have more than a cursory, or an arm's length, understanding and appreciation for the diaspora of people who live here in the State. (timer rings)

For as we can see, it has taken New Jersey 218 years and counting to get a person of color onto the Supreme Court -- that is, Judge James H. Coleman.

Finally, but in no way totally, reincorporate men into the lives of their children, and as members of an egalitarian society, which began with a revolution, a revolution not yet completed, a revolution still to come.

In conclusion, we have not learned anything new here today. It has been repetitive, and with good cause, for in repetition we learn, hopefully.

ASSEMBLYMAN KAVANAUGH: John, thank you very much for coming. Thank you for your testimony, which will be made part of the record.

Next, Dr. Jeff Barnes, who had something he wanted to add to his previous testimony.

This is two minutes.

DR. BARNES: When I was here before, I had stated that I had no bad experience with my cases being heard -- my points, my orders, whatever -- and I have to correct that. The Friday before last, I was successful in recusing a judge for an appearance of prejudice. It had been 15 months before I got to be in front of him. I only got in front of him by filing a motion to recuse him.

I had to make the statement, that even though apparently I was lucky in the past, it is absolutely absurd what is going on. The judges and the lawyers have to be made accountable -- this was also mentioned. The basis of mine is the fact that I have a 20-year-old son and I feel it is very important that you emancipate 18-year-olds so we can have a parental discord -- a relationship that has no politics involved, which in essence, in my situation, would be man to man, without any politics.

I want you to also realize that when you have two households instead of one, there is less money available. (timer rings) Take the gender out of it. Finally, take action.

Thank you.

ASSEMBLYMAN KAVANAUGH: Thank you.

All right. Michael Mayo. Michael had previously been here.

Two minutes.

M I C H A E L M A Y O: Thank you, members of the Commission. I'd like to say that I truly think the Commission has handled the entire proceedings without bias, and as neutral as possible. But first, I would like to comment on some of the information that we heard today.

We talked about perjury today, and the fact that perjury is being committed constantly. I think this Commission needs to address that issue, to look into the perjury idea, and

make those who are committing perjury -- and if it can be proven that perjury was committed -- be held accountable.

We also talked about the tender years doctrine. A long time ago -- back in 1984, I believe it was -- Assemblyman Kavanaugh, you introduced Assembly Bill No. 122, which was a joint custody bill at that time. Our organization, Fathers United for Equal Rights and Women's Coalition, took that bill apart word for word and saw in its entirety that there was no gender biasness in that entire bill. We have passed a similar bill which has been strewn with gender bias, and is basically of no use to anyone. (timer rings)

I'd like to continue with just saying that we need to really make some positive and decisive moves to make sure that we get some concrete movement on the laws of divorce, so we can all benefit from it.

ASSEMBLYMAN KAVANAUGH: Thank you, Michael.

Daniel John Hudson. Junior and senior?

D A N I E L J O H N H U D S O N, SR.: (from audience) Only the senior will be testifying.

ASSEMBLYMAN KAVANAUGH: Say again?

MR. HUDSON: Only senior will be testifying.

ASSEMBLYMAN KAVANAUGH: Is junior back there?

MR. HUDSON: Yes, he is.

ASSEMBLYMAN KAVANAUGH: Bring junior up, he has two minutes. (laughter)

Junior, Daniel, Danny? (child does not respond)

Well, he's probably a Democrat. We'll let him stay. (laughter)

UNIDENTIFIED MEMBER OF AUDIENCE: I wouldn't count on that.

ASSEMBLYMAN KAVANAUGH: No, no, there are no politics here. (laughter)

Hi, Dan. How are you? Danny?

Is it Daniel, is that what they call him?

MR. HUDSON: Daniel.

ASSEMBLYMAN KAVANAUGH: Daniel.

Hello, Daniel. Hi. Okay, your two minutes are on. (laughter)

MR. HUDSON: Good afternoon, Commission members. My name is Daniel Hudson. I am here on behalf of my son. I'll concentrate on 2C:13. There is no intelligent reason for both parents and children to suffer because of one parent's actions. Tacitly condoned parental violations, through nonprosecution at the Superior Court level, do nothing to promote stability in any child's life, nor do they foster the feeling of a harmonious relationship between the two parents. All this does is reinforce and guarantee further parental violation of laws and court orders.

It also further educates impressionable young children that the laws of our society are only to be followed and/or upheld when it's convenient. Educating children that laws and court orders are only to be adhered to when it is convenient is an extremely dangerous practice. Children grow up to be parents, and the primary responsibility of parents is to educate their children to become responsible, upstanding, and law-abiding members of society. Currently, application of this law is contrary to that ideal.

I have spoken before about this very same issue, and recent information has been that one of the cosponsors-- (timer rings) --Marlene Lynch Ford--

ASSEMBLYMAN KAVANAUGH: Daniel, would you like your father to speak for you at the moment? (affirmative response)

Okay. You have Daniel's two minutes. This is our final person.

MR. HUDSON: Marlene Lynch Ford was one of the cosponsors of this law. She is presently a sitting judge in Ocean County Family Court. She has recently taken the weight of this law and applied it expressly with her intent, to

protect the children's rights. Recently, a custodial parent was brought before her, and the outcome of that was probation with a jail stipulation. There is obvious reason for this law to be on the books, and I believe it should be upheld as it is written, not how it is interpreted and applied discretely. I don't think that serves anyone. I don't know who that really benefits. It surely does not benefit the children.

I have submitted written testimony, which I excerpt, and there is a schedule of what I consider reasonable enforcements upon custodial and noncustodial parents, especially those who habitually deny the child the right to two parents. This is child abuse pure and simply, and it should be considered to be enforced under the domestic violence act.

Thank you very much. (applause)

ASSEMBLYMAN KAVANAUGH: Thank you, Daniel Jr. and Daniel Sr.

I'd like to thank all of those who were here today and testified, the ones who testified previously and came back, also the members of the Commission and my Vice-Chair, the Subcommitte Chairpersons who are still working, our recorder who has sat here all afternoon, and to the staff, thank you very much. At this time we will adjourn the meeting.

(MEETING CONCLUDED)

APPENDIX

Martin Rodetsky
care of **People Against Corruption & Tyranny**
c/o 460-1/2 Alden Street
Orange, New Jersey
near postal zone 07050

Ladies and Gentlemen of this Panel:

1. I have received many inquiries about the tape that I played in August. It seems that some of the people who heard the tape did not recognize Maryanne Espinoza Murphy, and I want to make sure that all of you recognize her in her finest hour as a judge in the Family Court of Morris County. I want to remind you that she CONFESSED that she was never trained before she was exposed to trusting litigants, and ruined their lives under color of law.

PLAY THE TAPE

2. After the other addresses made before this commission, I thought about what had to be done to constructively improve the NJ Court System. What I found was both disappointing, and invigorating. Since there is no hope of resurrecting the Family Court, this Panel is - potentially - operating as an exercise in futility. Family Court MUST be abolished, to eliminate the FRAUD, EXTORTION, CORRUPTION and TREASON being perpetrated by MURDERERS OF FAMILIES in BLACK DRESSES to enrich themselves at the expense

of the children.

3. What is exciting and invigorating is the opportunity to share the knowledge I have gained from exposures to such leading lights of law as Herbert Glickman and Maryanne Espinoza Murphy. What I learned is that ALL judges in Family Court are criminals operating fraud, deception, subterfuge and evasion under color of state law to extort money from innocent litigants who make the mistake of appearing before them.

4. While the best guess is that proposed legislation from this commission MIGHT become law in 2-3 years, YOU have the power to stop them TODAY! YOU CAN STOP FAMILY COURT IN ITS TRACKS, SIMPLY BY SAYING NO! NO to excessive support payments. NO to restrictions on access to your own children. NO to False Charges of Domestic Violence; and

NO to CATTLE CHUTE JUSTICE imitating Law to hide the fraud being perpetrated by government under the banner of 'for the best interests of the children'.

5. Helping, aiding and abetting this fraud are the lawyers, who collect unconscionable fees for selling out their clients. According to the legal encyclopedias, the Attorney Oath is: FIRST loyalty to the Court, SECOND loyalty to the State, THIRD loyalty to Public Policy, and - THEN - the client comes FOURTH! In Family Court, where your opponents ARE the Court, the State and Public Policy, EVERY LAWYER has a built-in conflict of interest THAT THEY NEVER INFORM THEIR CLIENTS ABOUT!

6. We therefore come to the first part of the Family Court argument. Family Court is Equity Court. Equity Court is CIVIL LAW; and GOVERNMENT HAS NO

JURISDICTION IN CIVIL LAW - never, at any time, for any reason. As a matter of fact, civil law jurisdiction can ONLY be established when there is a LAWFUL CONTRACT, and the litigant CONSENTS.

7. The most bizarre part of family court is the original divorce summons. If the ALLEGED DEFENDANT simply REFUSES to appear, the divorce action is TERMINATED. By the same token, since the Alleged Plaintiff has filed for divorce, the spouse is perfectly within the law to file a BREACH OF CONTRACT suit in LAW DIVISION. When the judge tells you that this is a family matter, and must be decided in Family Court, inform the judge that you have no contract with Family Court, and that you are appearing in Law Division seeking damages for BREACH of an existing contract - the marriage contract.

8. I REFUSE to VOLUNTEER to CONSENT to COMPLY. That says it all. If you do NOT consent to the jurisdiction of the Family Court, that judge has no jurisdiction, no authority, no POWER to continue. Absent Jurisdiction, there is no authority to proceed. . .there is no power to sanction (contempt) and the judge loses even the illusion of a claim to immunity from suit.

9. We now come to the lawyers in Family Court. If you have made the mistake of showing up - EVEN IN SPECIAL APPEARANCE CHALLENGING THE JURISDICTION OF THE COURT - supply the judge AND OPPOSING COUNSEL with waivers of immunity from civil suit under Title 42 and from criminal prosecution under Title 18. IN TWO YEARS, no judge, no lawyer, has ever signed one of these documents. When they refuse to sign, DEMAND that

they remove themselves from the case, as they intend to violate your rights under color of law. STICK TO YOUR DEMANDS. Even if they ride roughshod over you, your position MUST be protected when this case finally goes before the Supreme Court of the United States.

10. Family Court is designed BY the LAWYERS, FOR the JUDGES, AT THE EXPENSE of the LITIGANTS. EVERYBODY WINS - but the litigants. Most especially, the children lose. For 'the best interests of the children' means that the lawyers' seed, the judges' clones; the politicians' heirs get to go to Harvard on YOUR children's college money.

11. When you go to court, remind EVERYBODY that the judges get paid, the lawyers get paid, the bailiffs get paid, the secretaries get paid. YOU WANT TO GET PAID, TOO! Under the 5th

Amendment, Private Property cannot be taken for public use without just compensation. Since your TIME is your private property, you must be PAID for its use. Accept 20% finder's fee from the judge - who gets $106,000 per year. That translates into $400 per day; or about $100 per hour. Remember that judges don't work full days like real people. 20% of $400 is $80 from the judge.

12. Family Court lawyers get between $250-$500 PER HOUR! 20% would be $50-100 PER HOUR from the opposing counsel. By the time you factor in the bailiffs, secretaries and other courtroom functionaries, figure another $100 PER HOUR additional finder's fees due from the other courtroom personnel.

13. BEFORE you go to court, WRITE THIS NOTIFICATION. First, you REFUSE to go thru the metal

detectors. It is unreasonable searches and seizures under the 4th Amendment. If the judge won't permit you to enter the court without going thru the metal detectors, inform the judge that he can convene the court OUTSIDE the metal detectors.

14. Second, inform the court that, since your time is your private property, you REFUSE to wait in the cattle chutes of Friday Motion Day. You will come to court, WAIT 15 MINUTES, and if your case is NOT called, you will LEAVE, and you won't come back until you have been paid for your time and expenses, AND THE CHECK HAS CLEARED THE BANK.

15. By the same token, NEVER go into court without witnesses - AND your tape recorder. Ideally, you should bring your VCR with you. We have seen too many cases where litigants have had the stuffing physically beaten out of

them by the bailiffs when there were no witnesses present. It is amazing how well the judge's behavior improves when the eyes of the world are upon him - OR HER!

16. When you go into court, sit in the back of the peanut gallery with the rest of the audience. When the judge calls your case, stand up and ask: Judge - are you asking the accused to volunteer to being a defendant? NO MATTER WHAT the judge says or does, DO NOT enter the arena until you have established what you're doing there.

17. When the judge tells you to 'come on down', ask if he is ASKING you to come down, or if he is ordering you to come down. Obviously, if he asks you, REFUSE! If he ORDERS you, ask him what will happen if you don't. Get the judge to state on the record that you are coming

into the court AGAINST YOUR WILL and OVER YOUR OBJECTION, under threat, duress and coercion. DEMAND that he take JUDICIAL NOTICE of your position at law.

18. When you have finally 'arrived in the court' WITH YOUR VCR, be sure and make your assertion of rights. Ask the judge if he took an oath to uphold and defend the Constitution. When he says yes, say that you ACCEPT his offer, and will PRIVATELY and PERSONALLY hold him to the contract. Then, when he violates your rights, you can sue him for BREACH OF CONTRACT, and he has no immunity for private actions IN HIS MINISTERIAL CAPACITY.

19. Speaking of ministerial capacity, the Assignment Judge of each courthouse is the CHIEF JUSTICE of the County. He is ADMINISTRATIVELY responsible for ALL of the actions performed in that courthouse, even by the

other judges operating OUTSIDE their jurisdiction under color of law to violate your rights.

20. THERE IS NO REASON WHY THE SUPPORT SHOULD GO THRU THE PROBATION DEPARTMENT. The only reason the State cares is the Title IV-D Extortion Money, being paid in conspiracy to violate your rights. If they tell you to pay thru probation, tell THEM to monitor juvenile delinquents and leave you alone. - OR - give the Title IV-D money directly to your child as part of your support.

21. WE DON'T HAVE THE TIME TO DISCUSS DOMESTIC VIOLENCE, EXCEPT THAT IT IS 'INFRACTION LAW'; WHOSE ONLY PURPOSE IS TO VIOLATE YOUR RIGHTS. <u>DEMAND</u> YOUR TRIAL BY JURY; WITH FULL CRIMINAL DUE PROCESS, IF YOU ARE ACCUSED OF ANY DV CHARGE. OTHERWISE, YOU ARE PRESUMED GUILTY, AND DO NOT EVEN HAVE THE CHANCE OF DEFENDING YOURSELF.

22. From here on, it gets technical and complicated - NOT the court, because any law too complicated to understand is in violation of the Constitution, and you cannot be held to its conditions. What is complicated is UN-LEARNING all of the deceptions drummed into you since kindergarten by the state-controlled schools; teaching obedience, compliance and acceptance; instead of SOVEREIGNTY, INDEPENDENCE, FREEDOM, LIBERTY, JUSTICE and EQUALITY.

23. We are teaching our members how to stop the oppressive courts acting in fraud. It is not easy, and means taking responsibility for your own lives - WITHOUT HIRING LAWYERS TO SELL YOU OUT. Even in those few cases where they are needed, we are teaching our members how to control the lawyers, AND your pocketbooks. Always remember that the only winners in Family Court are the judges and lawyers.

For those of you who are interested in regaining your government, in reclaiming the dignity and redressing the humiliation you suffered in family court with the impostors in black dresses, contact P.A.C.T. at 460-1/2 Alden Street, Orange, New Jersey, near postal zone 07050.

Thank you for your time.

Dr. Thomas S. Graves
141 Spruce Street
Princeton, N.J. 08542
609-924-4149

Commission to Study the Laws of Divorce
Legislative Office Building
135 West Hanover St.
CN-067
Trenton, N.J. 08625

Dear Commissioners:

The law of the State of New Jersey, *N.J.S.A. 9:2-4*, requires that in the matter of deciding custody of minor children following separation or divorce, that both parties be considered equally (Exhibit A). This would imply that in divorces where children are involved, men and women would be custodial parents in approximately equal numbers. However, in nearly every case, physical custody is awarded to the woman. Obviously, the law is not being followed and I was curious to know why.

The answer can be found in a publication of the New Jersey Institute For Continuing Legal Education, authored by two attorneys, Gary Skoloff and Laurence Cutler, and entitled New Jersey Family Law Practice, Seventh Edition, 1994 (Exhibit B). These three volumes of over 1500 pages of legal precedents, citations, tables and explanations is considered to be the primary reference of family court judges and attorneys. Herein I found the justification for the biased decisions of the family courts of New Jersey. It is called the **"Tender Years Doctrine"** (Exhibit C). It is the driving force behind most decisions of family court, and yet is not the intent of the law as it is stated.

The "Tender Years Doctrine" in effect states that a young child is normally placed with the mother, if she is fit. New Jersey Family Law Practice states that there are conflicting opinions as to whether the Tender Years Doctrine is still the law of New Jersey and that it certainly survives in the form of an inference from the scientifically unproven idea that a child under seven has greater need for maternal care than paternal care. They also note that the Tender Years Doctrine raises a constitutional question of denial of equal protection under the law based on sex discrimination. However, they enumerate many cases which have cited this doctrine. In the case of *M.P. vs S.P., 169 N.J. Super. 425 (App Div 1979)*, the Appellate Division awarded custody of two daughters, ages seven and eleven, to their mother, despite the mother's homosexuality, stating that although the Court's personal views may be to the contrary, the Supreme Court has still not displaced the Doctrine of Tender Years.

In the more recent *Matter of Baby M., 109 N.J. 396 (1988)*, the court held that when mother and father are separated and disagree on custody, only in rare cases should the child be taken from it's mother. The reason that they give is that only the mother forms bonds with the child. While this opinion is contrary to all scientific evidence, New Jersey Family Law Practice states that the position of the court in the *Matter of Baby M.* effectively retrieves and reinforces the Tender Years Doctrine, so that, while it is not technically a law, it has the force of law.

New Jersey Family Law Practice states that the paramount position held by the issue of custody of children cannot be overstated, and that determination thereof is the most important judicial task which a matrimonial judge has to complete. However, the Tender Years Doctrine makes this most important decision of all a forgone conclusion in 95% of cases, i.e., the children go to the mother, unless she is found to be unfit. Typically, to prove a woman unfit for motherhood is to prove that she is either sexually promiscuous or a substance abuser, hence the media sensation of the Baby M case.

The assumption that a woman is a better parent than a man for no reason other than her sex begins a cascade of bias that pervades the legal system surrounding family disputes. Results of this concept include that:

1) A man has little or no say in any matter decided by family court because the court is duty-bound to uphold the rights of the children and the woman is presumed to better represent those rights.

2) A woman can violate court orders with virtual impunity because to prosecute her would be to deprive the children *Beck vs Beck, 86 N.J. 480 (1981).*

3) In domestic disputes, police hesitate or sometimes refuse to arrest a woman because they would be depriving the children of the better parent.

4) Mediation cannot work because the woman has nothing further to gain.

On the other hand, a man with children will find family court a nightmarish experience. Typically, for no reason other than his sex, he will be deprived not only of his children, but his house, and a large portion of his income, so that his children and the "better parent" will not suffer a lifestyle change. This happens no matter who was really the better parent, who makes more money, or who was at fault in the divorce. It is no wonder that many men do not follow the orders of the courts, because the courts, quite obviously, refuse to consider their interests. However, while a woman may violate court orders with impunity, for a man to do the same means jail.

It is this bias that has made many issues of divorce appear to be male-female issues. Since women nearly always receive support, the issue of enforcement of support payment has become a "woman's issue". Since men are nearly always the non-custodial parent, the issue of enforcement of visitation time has become a "man's issue".

Members of the Commission, the Tender Years Doctrine is judicial reality and you must deal with it when you rewrite the law, if you wish the courts to follow your law. If you believe it, that the woman is the better parent than the man for a young child, then you should put it formally into the law. That way, each parent will know where they stand and will save thousands of court hours and millions of dollars in legal fees. However, if you believe *N.J.S.A. 9:2-4* that both parties must be considered equally, you must state, in no uncertain terms, that the Tender Years Doctrine is not the law of the State of New Jersey. The wording must be strong enough so that there can be no question of this in the mind of any judge. To let the situation go on as it has, with the legislature stating one thing and the judiciary practicing another, is not only confusing, it is cruel to litigants fighting for outcomes that are a forgone conclusion because of their sex. It also serves to promote disrespect for lawyers, judges and the whole legal system by those who see only that the system is completely arbitrary and ignores the law.

As a future remedy against this sort of hidden bias, I strongly recommend that you monitor the decisions of the family courts and publish yearly statistics. I will venture to say that the reason that this commission is meeting and taking testimony is because you do not know what is happening in your family courts. You have some anecdotal information, you hear complaints, but these typically represent only a small proportion of the cases heard, and only from those who know enough about the political system to know who to complain to and do not represent the "normal" cases. For example, you could monitor how many cases are adjudicated, how many involve custody disputes, and of those, how many had sole custody awarded to man or woman, joint custody with primary custody with man or woman, and how many had shared physical custody. You could also keep track of the amount of time each parent is awarded with each child, the amount of monetary awards and any other thing that you felt was important. It would be as simple as having a court clerk fill out a small report form every time a case is decided and send that report to a state statistical office each week or month where they can be collated with results from around the state and published on a yearly basis. The names of the litigants involved could be kept confidential and only the summary statistics would be published. In this way, you could see if the outcomes that you expect from the law are actually the outcomes you get from the courts. You could also see if they differ significantly from county-to-county and judge-to-judge. It would allow you to keep track of individual judges and give you objective information when it comes time to renew judicial appointments. It would give you objective data to respond to complaints of racial or sexual bias against judges, and it would let judges know that they do not have an absolutely free hand to do whatever they please because the legislature is watching. It would also allow behavioral scientists to study the various phenomena associated with divorce, such as the relationship between crime and single parent families. If you as a commission do nothing else, I believe that you should do this and take the mystery out of the system.

Sincerely

Thomas S. Graves

Thomas S. Graves, Ph.D.

TO THE COMMISSION TO STUDY THE RULES OF DIVORCE

From: Charles D. Forberg
7 Medford Ave.
Hamilton, New Jersey
08619
(609) 584-1887

The following proposal is submitted:

Whenever there is a substantial difference in the tax advantage by claiming a child for income tax purposes, the parent with the substantial advantage be allowed to claim their child. (Substantial could be replaced with a dollar amount.)

Reason:

In the case of a parent who would have a greater tax advantage, but does not meet the present IRS requirements to claim their child, this would allow for a greater combined parental income for support of the child.

Enclosed is a copy of a motion which was denied by Superior Family Court. In this motion it was stated that an approximate $2,000 tax advantage/year would strictly be used for the child. By the time my child is 18 this would amount to $24,000 not counting interest. Further argument for the proposal is contained in the enclosed motion.

Sincerely,

Charles D. Forberg

Charles D. Forberg

23X

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, FAMILY PART
MERCER COUNTY
DOCKET NO. FM-03974-90

DOREEN T. FORBERG,	:	
PLAINTIFF,	:	CIVIL ACTION
vs.	:	CERTIFICATION
CHARLES D. FORBERG,	:	
DEFENDANT	:	

I, Charles Forberg, do hereby certify as follows:

1. I am the Defendant, moving party in the above entitled matter.

2. On 09/10/93 a motion by the Defendant to claim his daughter on both his Federal and State Income Tax was denied. The court expressed at that time it could not see a great enough need. It is my believe in the present and in the future there is very much a need.

3. The support agreement of 2/18/92 requires that every year on or before May 15 of that particular year, the Plaintiff and the Defendant exchange both State and Federal Income Tax forms for the prior year. From this financial information it can be determined the Paintiff saves approximately

$400 total in Federal and State Income Tax. The Defendant would save approximately $2400. The Plaintiff does not have to supply any more financial information than already agreed upon to determine tax savings incurred by claiming Erika.

4. Because the Defendant will be reimbursing the Plaintiff for any money lost by not claiming Erika there will be no financial loss. Because tax forms are exchanged every year there in no financial information beyond what has already been agreeded upon necessary to determine a payment to the Plaintiff.

5. What will be gained is the Defendant will be able to recieve a net of $2000 Federal and State Tax money which will be totally used to provide that which cannot be afforded now for Erika.

6. The gross income of Erika's parents is over $86000, yet presently for 1993 only $400 in both State and Federal tax moneys have been deducted due to Erika's support. An intact family would be gaining at least a $2400 deduction and would not be experiencing the same out of pocket expenses for child support. The added expenses due to the divorce are huge. There are no winners, just loosers. The courts have a chance in this situation to help a bad situation by allowing for the return of tax money's. The spirit of the tax laws is to return this money to those who provide support, it is only the difficulty of a divorce situation which makes this impossible without the courts help.

7. If the courts grant this motion I will start a College fund for Erika with $1000, enroll Erika into gymnastics with $500, and use $500 for different YMCA or Holt camp

activities. Erika is adopted and not the biological child of her mother or myself. Erika is Korean and relating with other children like herself at the Holt camp would aid in her development.

8. I bring home $3000 per month. Monthly expenses include:

1.	Morgage	$1164
2.	Child Support	$ 630
3.	Electic & Gas	$ 110
4.	Water & Sewer	$ 50
5.	Ballet Lessons	$ 35
6.	Telephone	$ 45
7.	Auto Insurance	$ 135
8.	Auto Regist.	$ 15
9.	Auto fuel	$ 120
	Total	$2304

That leaves approximately $700 for food, house maintenance, clothing, and car maintenance. Considering my 83 Datsun has gone 198,000 miles, my 85 Truck has gone 99,500 my transprotation situation for work is a little scarry. The Plaintiff tells my daughter I'm a Cheap Scape, and to be honest the way I have to dress and the car I drive make this statement true to some people. I do put $200 a month above the $3000 into the company credit union, but this year I had to use it for bills. This is the first year I have not been able to go on vacation with my daughter, except to visit my parents in Kentucky. I just don't have the money without dipping into savings.

11. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

Charles D. Forberg

CHARLES D. FORBERG, Defendant
PRO SE

Dated: 3/17/93

26X

Original forwarded to Superior Court Clerk's Office

LAW OFFICES
DAVID A. SALTMAN
P.O. BOX 1438
E. WINDSOR, NJ 08520
(609) 443-4300
ATTORNEYS FOR Plaintiff

DOREEN T. FORBERG, Plaintiff(s), vs. CHARLES D. FORBERG, Defendant(s)	SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION - FAMILY MERCER COUNTY DOCKET NO. FM-03974-90 CIVIL ACTION ORDER

THIS MATTER having been brought before the Court by Cross Motion of David A. Saltman, Esq., on behalf of the Plaintiff, and the Court having considered the matter, and for good cause shown:

IT IS on this 5th day of November, 1993, ORDERED that Defendant's Notice of Motion for Reconsideration is hereby denied; and,

~~IT IS FURTHER ORDERED that Defendant shall pay Plaintiff's attorney counsel fee in the amount of $_____.~~

F. Lee Forrester

F. Lee Forrester J.S.C.

27X

NEW JERSEY COUNCIL FOR CHILDREN'S RIGHTS

POSITION PAPER: CHILD SUPPORT GUIDELINES

August 11, 1993

Introduction

Assurance of *adequate* child support in cases of divorce and separation is an important priority for society. Establishment of a fair and uniform system for identifying reasonable levels of child support is necessary to insure the economic needs of children are met. Prior to the establishment of child support guidelines, wildly divergent support orders were entered by judges. The guidelines effectively removed the setting of child support from the hands of the judiciary because the support orders were often capricious and usually without an understanding of the economics of divorce and the economic needs of children.

The State of New Jersey uses the Child Support Guidelines [1] to determine the amount of child support to be paid by a non-custodial par . The Guidelines are to be used as a **rebuttable presumption**. They should not be used if they require an inequitable support payment [2]. The question is, of course, do the Guidelines provide equitable results? If not, under what conditions do the Guidelines lead to inequitable results? The New Jersey Council for Children's Rights (NJCCR) supports an equitable child support law, but questions whether the laws in New Jersey are equitable.

Whence the Guidelines

A determination of the Guidelines essential fairness can only be reached after gaining an understanding of how the Guidelines were created. New Jersey's Guidelines were created pursuant to a federal law that required all states to adopt child support guidelines or risk losing federal funding [3]. New Jersey adopted the **income shares model** as set forth by the U.S. Department of Health and Human Services.

> "The Income Shares model is based on the concept that the child should receive the same proportion of parental income that he or she would have received if the parents lived together." [4]

In New Jersey, support orders are a function of net income. Each parent's net income is determined by subtracting taxes, prior support orders and mandatory deductions from gross income. The percentage each parent is obligated to pay for the child is then determined as each parents net income over the sum of their net incomes. Child care expenses and extraordinary medical/dental expenses are added to the figure mandated by the Guidelines to determine the total weekly child support obligation. The percentages are then applied to this total child support figure to determine each parent's weekly child support obligation.

The child support figures used in New Jersey are from a 1981 study [5] that used 1972/73 consumer expenditures [6], adjusted for inflation from 1973 to 1981, as the input data. It is important

to note that the current (1993) child support Guidelines are derived from the spending patterns of an intact family in 1973. There can be little doubt that even the spending patterns of the 1993 intact family, as well as the spending patterns of a 1993 separated family, differ significantly from the spending patterns of 1973 families. This deficiency in the Guidelines could only be corrected by using a consumer expenditure study from the 1990s and redoing the work of the 1981 study. The 1981 study was selected because it was purported to be based on two very important economic principles: 1) it identified the children's expenses separately from the expenses of the parents, and 2) it recognized the impact of economies of scale and used marginal costs when calculating the expenses associated with the addition or reduction of dependent children. The data and economic theory (see below) used to determine New Jersey's total child support figures are NOT the only data and economic theories available today. Not every state has adopted Guidelines based on the Income Shares model.

Economic Data on the Costs of Raising Children

The 1972-73 data, adjusted each year for inflation, comes from data obtained from intact families. The 1981 study purports to determine the "costs of raising children" in a two-parent, two-children nuclear family. The child support amounts in the Guidelines thus reflect the costs of raising children in an environment in which certain "economies of scale" apply. The Guidelines do NOT reflect the fact that the divorced family must have two residences, two cars, and so on: this means that there is simply less money available to spend on the children in most cases. Thus, the Guidelines are inequitable because they are based on data that do NOT reflect the costs of raising children of divorce. Further, the Guidelines do not take into account the necessity of two dwellings and the like. Guidelines in some other states do [7], and such considerations could easily be incorporated into New Jersey's calculations by allowing as deductions in the computation of net income various fixed expenses: housing, transporation, insurance (health and life), and the like.

The Economic Theory Used in Computing the Costs of Raising Children

The problem here is in how to estimate the portion of a family's total expenditures that belong to the children, i.e., the marginal cost.

> "The vast majority of a family's expenditures (90 percent) are made either on shared goods or privately consumed goods, such as food, that are not readily attributed to a given family member. Both of these categories of goods make estimating expenditures on children problematic. What portion of a family's expenses on a shared good such as housing, for example, should be attributed to the family's children? ... Only in cases where goods are consumed exclusively by adults (e.g., adult clothing or alcohol) or consumed exclusively by children (e.g., children's clothing or toys) is there a reasonable prospect of sorting out on whose behalf the expenditure was made." [8]

The consumer surveys used to generate the basic cost data only contain figures for a family's overall expenditures, and in general, do not distinguish shared goods expenditures from private goods expenditures.

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> "...[W]e introduce the concept of 'well-being' or what economists refer to as 'utility.' Consider the childless couple with a particular level of income. If a child is added to the household, the family will spend some of its budget on the child. As a result, the adults spend less on themselves and their level of economic well-being decreases because of the presence of the child. The 'cost' of the child to the adults may then be measured as the extra resources needed to bring the parents back to the same level of economic well-being they would have enjoyed had they remained childless." [9]

None of this gets us anywhere unless we CHOOSE some measure of economic well-being (utility). New Jersey's Guidelines are **based on the assumption that families that spend the same percentage of their income on food have the same well-being** [10]. In this way the "cost" of raising "a child" can be determined by considering the difference of total expenditures between a childless family and a family with one child, if both families spend the same percentage of their total expenditures on food. Apart from the fact that the Guidelines were generated only on the assumption that expeditures on food alone is a valid measure of economic well-being, the operation of the mathematical formulas underlying the guidelines has the practical effect of forcing persons with widely varying individual circumstances into predetermined pidgeonholes.

Other Deficiencies of the Guidelines

The economic data generated was an **average** based on three socioeconomic levels: high, medium, and low family income. Thus, it was computed that all parents within each socioeconomic level spent an average amount of money on their children; thus the Guidelines are based on **estimates** and of necessity are overly generous to children from families on the low end of each socioeconomic level, and under generous to children from families on the high end. The New Jersey Guidelines attempt to correct for this by providing for a "sliding scale" of percentages, but this in turn leads to several anomalous and irrational results (see below).

- This method of averaging does not take into account the aging of children: older children cost more. The Guidelines fail to guarantee adequate levels of support to both older and younger children, as they only provide for the average child. The judiciary have attempted to correct for this unfairness to some degree by awarding the higher figure from the spread given in the total child support tables when older children are involved.

- The data are based on national figures, and fail to distinguish various demographic factors: it costs more to live in New Jersey, and to raise children in New Jersey, than it does in Indiana [11]. It costs more to live in an urban area than it costs to live in a rural area. It costs more to live in northern New Jersey than it does to live in southern New Jersey. The Guidelines fail to consider any of these demographic factors.

- The Guidelines only cover the first $52,000 (yearly net) of income, and child support awards for children in the Upper Middle class and above are back in the hands of "judicial discretion."

- No provision is made for expenses incurred by the non-custodial parent when the children

spend time with him: vacations, gifts, clothing, food, and the like [12].

- Health expenses: both non-reimbursed and insurance costs, are already included in the total child support figures (see below), and should ALWAYS be paid by the obligee, NEVER by the obligor in addition to his child support payment.

- The Guidelines allocates more dollars in the support order for a child's transportation than it does to their recreation, clothing and health care combined (see below, Table 1).

- There is no provision for when older children earn money, some of which should go to their support.

- The Guidelines figure shelter costs at the "current market rate" and do not make provision when the custodial parent and the children are living in the marital home, that was purchased years before with a fixed mortgage, protected from the inflationary spiral in real estate.

- The Guidelines make no provision for tax credits for items such as mortgage interest, real estate taxes, other dependents, and the like.

- The Guidelines make no provision for credit when a second adult wage-earner is living in the same home as the children defraying some of the fixed costs.

- Though the Guidelines do take into account **prior** support orders, they do not take into account other dependents of the obligor acquired after the support order [13].

- In New Jersey children are only emancipated when they become self-supporting; the Guidelines were based on data for children ONLY up to the age of 18.

Rebuttable Presumption of the Guidelines

The Guidelines are supposed to be a "rebuttable presumption," but there are no standards recognized by the judiciary for rebutting the presumption. The Guidelines explicitly state that they do NOT take into account the economic impact of the following factors.

- Nontraditional custody and visitation arrangements (a traditional arrangement has the children with the custodial spouse 80% and with the non-custodial spouse 20% of the time).

- Spousal support (alimony).

- Equitable distribution of property.

- Tax consequences.

- Fixed direct payments.

- Unreimbursed extraordinary medical/dental expenses for the **obligor** parent (not for the children -- those are taken into account, and mishandled -- see above).

- Educational expenses for the children or the parents.

- Single-family units having more than six children.

- In non-welfare cases, stipulated agreements for child support.

We have seen that there are several other factors NOT taken into account by the Guidelines. In order for the "rebuttable presumption" to be rebuttable, ALL of the factors NOT considered by the Guidelines MUST be considered: for instance, if the children spend more than 20% of their time with the obligor parent the amount MUST be less than the Guidelines in order to be equitable.

In rebutting the Guidelines it is also important to inspect how the child support dollar IS SUPPOSED to be spent. As an example, we include here the assignment of the total child support cost to different categories [14]. It must be remembered that the percentages represent the cost of the child, NOT the total costs of the household. The cost (in dollars) for the child can be obtained by multiplying each percent into the total child support amount (NOT just the obligor's share). In addition, these percentages DO NOT represent the "marginal costs" of the child within the total costs of the household.

Table 1: Allocation of the Child Support Dollar

Category	Percent
Travel (Transportation)	25%
Food	18%
Household (Furniture, Non-food Groceries)	10%
Recreation	10%
Shelter	9%
Clothing	7%
Health (Insurance and Non-reimbursed)	6%
Utilities	5%
Food Out (Restaurants)	5%
Miscellaneous	5%

After the total child support amount (for both parents) is computed, the amount proposed to be

spent on the child in each of these categories should be examined for fairness. This process will reveal glaring inequities due to individual circumstances.

Fairness of the Guidelines

The Guidelines should be fair to the parents as well as the children. See Appendix 1 for a more detailed study of the fairness of the Guidelines. It appears that the Guidelines, as fashioned in New Jersey, are designed to keep the non-custodial parent in relative poverty. Consider the following, simplified example. An average middle class income in New Jersey is $40,000 per year. Allocate 35% of that income to taxes (the federal, state, FICA, and HI taxes are included in the Child Support Guidelines Tax Tables, and come to 30% of gross; to this we add 5% for "hidden" taxes: sales, gasoline, alcohol, tobacco, ...). Allocate 35% of that income to housing, including utilities [15]. The child support (for just one child) comes to 15% of gross. This leaves the non-custodial parent with 15% (the same as for the child!), or about $6000 per year, for personal support. Deduct from this car insurance of $1000, leaving $5000; further deduct from this car payments of $200 per month, leaving $2600, or just $50 per week for food, clothing, commuting costs, unreimbursed medical, entertainment, and visitation expenses. It is amazing that the non-custodial parent in this example can survive at all!

The Connection between Child Support Payment Compliance and Visitation

The U.S. Department of Health and Human Services maintains that: because child support payment and visitation are not related, child support payment compliance can be enforced independently from the enforcement of visitation [16]. It is clear that HHS feels that child support payment compliance can be enforced even when the custodial parent is violating the visitation part of a court order. NJCCR supports the view that the support part of an order and the visitation part of an order can be enforced independently of each other. A denial of visitation rights is not grounds for witholding support payments, and failure to pay support is not grounds for denying visitation; this amounts simply to the principle that two wrongs do not make a right. It is well known that non-paying, non-custodial fathers ("deadbeat Dads") are subject to incarceration, but the State does practically nothing to enforce visitation for fathers and children, even if the father is paid up on his support. HHS errs, however, in their assertion that child support payment compliance and visitation are not connected, when the most recent Census shows clearly that the two ARE related (see Appendix 2).

Accountability

Child support orders are supposed to be reviewed every three years, and should be reviewed whenever circumstances change affecting the (fair) cost of raising children. Even if the Guidelines did a much better job of estimating the costs of raising children, AND took into account all of the above factors they do not now take into account, there is still a need for some kind of accountability. Accountability is needed, if for no other reason, to ensure that the proper amount IS being spent on the child, and to gauge the adequacy of the support order. In addition, accountability would allow the State to determine better regional support Guidelines, as it would generate **real data** on the expenses incurred in raising children.

Anomalies in the Guidelines

The Guidelines should have certain mathematical properties, if they are to be rational, and should obey certain other constraints, if they are to be just. Some of these constraints are listed below.

1. A parent's child support obligation should increase as that parent's (gross) income increases.

2. A parent's child support obligation should decrease as the other parent's (gross) income increases, holding the first parent's income constant.

3. Each parent has a net income (to spend on themselves) after taxes and child support are deducted. If the (gross) incomes of each parent are **reversed**, their net incomes should be reversed.

Though the first property holds for the Guidelines, the remaining two do not. The necessity of the second property should be self-evident. If the first parent's income remains constant, that parent's child support obligation should decrease as the second parent's income increases; as the second parent's income increases, that parent should have a greater child support obligation. This requirement is very simlar to the philosophy of the income shares model; that model holds that the child should be entitled to the same percentage of income (from each parent) that he would have received had the family remained intact. This requirement goes beyond that model, and requires what the courts are in fact doing today -- even if the income of the parents requires a greater contribution to the child's support than that which the child would have received if the marriage had remained intact, then the parents should share their largess with the children, and their child support obligation should be in the same ratio as their net incomes.

The third property required is a fairness or justice requirement: no parent should be "better off" (i.e., have greater net income than the other) if their (gross) incomes are the same; more generally, if their income situations were reversed, their net incomes should also be reversed.

A detailed proof that the Guidelines violate the second and third requirements can be found in Appendix 1.

Conclusions

New Jersey's Child Support Guidelines are woefully inadequate. The data and economic theory on which they are based is questionable. There are serious anomalies in them. Unless child support payments are fairly established, there is no moral authority for enforcement. Child support orders that are objectively unfair or which are arbitrarily imposed so as to create the impression of unfairness will only lead to civil disobedience; for instance, it is unfair to require an obligor to pay so much child support that he cannot live on his own. People trapped by irrational demands cannot vent their frustration at the Court, where it belongs, because they will get punished. This frustration tends, then, to get misdirected to the custodial parent and creates unnecessary tension and anxiety for the children. In order for a child support order to be fair, it must be **possible** for the

obligor to pay it AND support himself, as well.

Child support enforcement must be a high State priority, and NJCCR has proposals for ways that the State could encourage child support payment compliance without resorting to incarceration; the current methods of enforcement are costly and inefficient [17]. The individual who literally "wrote the book" on the use of jail for enforcement of child support payment has the following to say about it.

> "Stack up all the dubious aspects of jailing for nonsupport: the offense is an intrafamily one with complex emotional roots; jails are debilitating institutions - they exceed rather than fit the crime; jailing in this setting is difficult, nearly impossible, to administer in an evenhanded manner; when widely used, the prospect of jailing may well affect adversely the relationship between children and the parent under an order of support, even when the parent pays with unflagging regularity. On these grounds taken together, I, were I a legislator, would vote to remove the sanction of jailing for contempt from the permissible range of techniques for enforcing support." [18]

NJCCR agrees that "there must be a better way" [19].

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APPENDIX 1: Anomalies in the Guidelines Detailed

Simple calculations were done using the 1992 Guidelines for several different parental incomes, and several results emerged. The first twelve rows of Table 2, below, were computed from the 1992 Guidelines, assuming two children. First the weekly gross income of each parent was computed from their yearly gross (columns 2 and 3). Each parent's taxes were obtained from the tax table in the Guidelines (giving the non-custodial parent 1 tax exemption, giving the custodial parent 3 tax exemptions; columns 5 and 8). Each parent's taxes are then subtracted from their gross, obtaining a net figure for each, which were then added together to get combined net income. Note that no other deductions (but taxes) were made. The total net was then located in the total child support table, and the midpoint of the range of numbers given was chosen (column 10). Each parent's percent of the child support was then determined, and multiplied into the total amount to obtain each parent's child support obligation (columns 4 and 7). Lastly, each parents net was computed by subtracting their taxes and child support obligations from their respective gross income (columns 6 and 9). The following example illustrates the procedure used, and contains the figures generated in row 9, Table 2.

Non-Custodial Yearly Gross = $30,000, or $577 weekly
Custodial Yearly Gross = $15,000, or $288 weekly
Taxes for the Non-Custodial = $155, leaving $577 - $155 = $422 weekly
Taxes for the Custodial = $ 50, leaving $288 - $ 50 = $238 weekly
Total Net Income = $422 + $238 = $660 weekly
Total Child Support (from table) = $218 weekly
Non-Custodial percent = $422 / $660 = 64%
Custodial percent = $238 / $660 = 36%
Non-Custodial Child Support Obligation = .64 x $218 = $140 weekly
Custodial Child Support Obligation = .36 x $218 = $ 78 weekly
Non-Custodial Net = $577 - $155 - $140 = $282
Custodial Net = $288 - $ 50 - $ 78 = $160

We note that in this example (and similarly in rows 3, 6, and 12 of Table 2) the custodial parent has less net income than that allocated to the children for support; under these circumstances it is unlikely that all the money allocated to child support will be spent on the child, and indeed, there is no guaranteee at all that in any case all of the money allocated to child support will be spent on the children; in cases where it is not, child support is really a form of alimony.

The last three lines of the table were "over the Guidelines" (the total net income was greater than $52,000 per year), but were computed by extrapolating the percentages in the Guidelines.

Table 2: Sample Child Support Guidelines Calculations (in Dollars)

1 Row Number	2 Income Noncust Yearly	3 Income Cust. Yearly	4 Child Support Noncust Weekly	5 Taxes Noncust Weekly	6 Net Noncust Weekly	7 Child Support Cust. Weekly	8 Taxes Cust. Weekly	9 Net Cust. Weekly	10 Total Child Suppo Weekl
1	20,000	0	107	89	189	0	0	0	107
2	0	30,000	0	0	0	149	133	295	149
3	20,000	10,000	97	89	199	55	27	110	152
4	30,000	0	143	155	279	0	0	0	143
5	20,000	20,000	98	89	198	101	77	207	199
6	30,000	10,000	136	155	286	53	27	112	189
7	40,000	0	179	228	362	0	0	0	179
8	15,000	30,000	75	61	152	145	133	299	220
9	30,000	15,000	140	155	282	78	50	160	218
10	20,000	40,000	90	89	206	176	206	387	266
11	30,000	30,000	131	155	291	137	133	307	268
12	40,000	20,000	174	228	367	98	77	210	272
13	30,000	45,000	129	155	293	194	244	427	323
14	40,000	40,000	168	228	373	174	206	389	342
15	40,000	60,000	157	228	384	226	374	553	383

A comparison of rows 1, 3, 5, and 10 shows the effect of the custodial parent's earning income, holding the non-custodial parent's income constant. Note that as the custodial parent earns more, the amount of total child support goes up, as expected. However, when the custodial income jumps from $10,000 (row 3) to $20,000 (row 5) the non-custodial parent's support obligation goes up! The sequence of the non-custodial parent's net is: $189, $199, $198, $206. The same effect can be observed in rows 4, 6, 9, 11, and 13, where the non-custodial net runs: $279, $286, $282, $291, $293; however, this does NOT happen when the non-custodial income starts at $40,000. For these two examples, the second requirement (see "Anomalies," above) does not hold. A comparison of rows 7, 12, 14, and 15 yields a sequence of non-custodial net that is more rational: $362, $367, $373, $384.

We note in passing that there is a small advantage to the non-custodial parent when the custodial

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parent earns more. As the income of the custodial parent goes up, and the income of the non-custodial parent remains constant, the non-custodial net goes up only a little, if at all. The custodial parent's net, however, goes up dramatically. Considering rows 1, 3, 5, and 10, again, the non-custodial net runs: $189, $199, $198, $206; the custodial parent's net runs: $0, $110, $207, $387. Though there is great advantage to the custodial parent, as the income increases, and though the custodial parent must assume more and more of the child support burden, the advantage to the non-custodial parent, who bears less of the child support burden as the custodial parent's income increases, is of relatively small consequence.

Consider how the total child support varies as parental income increases (last column). In rows 2 to 4 and in rows 5 to 7, but not in rows 8 and 9 or rows 10 to 12, the amount of total child support varies significantly and irrationally. Some of this effect is due to IRS rules on who gets the tax deduction for the children, but that does not explain all of the anomaly here. In the upper bands the effect disappears, even with the tax consequences.

A comparison of the nets for each parent (columns 6 and 9) in rows 10 to 12 reveals a startling inequity. The $20,000/year, non-custodial parent gets to keep $206 (row 10), when the custodial parents makes $40,000/year, but when the circumstances are reversed, the $20,000/year, custodial parent gets to keep $210 (row 12), when the non-custodial parent makes $40,000. Even more glaring is the difference between the non-custodial net (row 12) of $367, and the custodial net (row 10) of $387. Much of this effect, but not all, can be attributed to the tax situation. This example shows that the third property (see "Anomalies," above) is not true of the Guidelines.

APPENDIX 2: The Connection Between Support Payment Compliance and Custody/Visitation

The latest Census Report [20] shows quite clearly that child support payment compliance and custody/visitation are connected, and it is not too hard to see this connection as causal.

Table 3, below, summarizes and extends the data in the Census Report [19, Tables C and D].

Let:
U = the Universal Set (all "absent" fathers);
A = the set of all absent fathers with AFDC children;
C = the set of child support-paying, absent fathers;
J = the set of absent fathers with joint custody;
V = the set of absent fathers with visitation;
N = the set of absent fathers with neither joint custody nor visitation.

Let "P(A)" mean "the probability of A." Let "P(A|B)" mean "the probability of A given B." First of all, we note that the set-theoretic union of A and not-A is U; the set-theoretic union of J, V, and N is also U.

$$A \cup \bar{A} = U$$

$$J \cup V \cup N = U$$

Equation 1 allows us to determine the probability of the set-theoretic intersection of two sets.

$$P(A \cap B) = P(A)\,P(B|A)$$

Equation 2 states the the probability of the set-theoretic union of two disjoint sets is the sum of their probabilities.

$$IF\,(A \cap B) = \emptyset, P(A \cup B) = P(A) + P(B)$$

Equation 3 is Bayes' Theorem, and allows us to compute P(A|B) given P(A), P(B), and P(B|A).

$$P(A|B) = \frac{P(A)}{P(B)} P(B|A)$$

Using these equations and the basic data in the Census Report we obtain the following tables.

Table 3: Overall Probabilities, P(C) = 0.669*

1**	2**	3***	4****
P(J) = 0.073	P(C|J) = 0.902	P(J and C) = 0.066	P(J|C) = 0.099
P(V) = 0.549	P(C|V) = 0.791	P(V and C) = 0.434	P(V|C) = 0.649
P(N) = 0.379	P(C|N) = 0.445	P(N and C) = 0.169	P(N|C) = 0.253

* - From Equation 2, adding the rows in the third column
** - From [19, Table D].
*** - From Equation 1, operating on columns 1 and 2.
**** - From Equation 3, dividing column 3 by P(C).

Thus, from column 1 of Table 3, the probability that an absent father has joint custody is 0.073, that he has visitation is 0.549, and that he has neither is 0.379. Column 2 of Table 3 gives the probability of 0.902 that an absent father pays his child support given that he has joint custody; of 0.791 that an absent father pays his child support given that he has visitation; and, of 0.445 that an absent father pays his child support given that he has neither joint custody nor visitation. NOTE THAT the probability that an absent father pays his child support, given that he has neither joint custody nor visitation is less than 0.5. Column 3 of Table 3 gives the probabilities that an absent father: has joint custody and pays his child support, has visitation and pays his child support, and has neither and pays his child support. NOTE THAT the probability that an absent father has neither joint custody nor visitation AND pays his child support is 0.169; clearly there is a very low probability that an absent father has neither joint custody nor visitation and pays his child support. Column 4 of Table 3 shows probabilities that an absent father has joint custody, visitation, or neither, given that he pays child support. NOTE THAT the probability that an absent father has neither joint custody nor visitation, given that he pays his child support is low (0.253); expressed differently, the probability that an absent father in the class of child support payers has neither joint custody nor visitation is low. Alternatively, 3/4s of all child support paying absent fathers have either joint custody or visitation. The connection between custody/visitation and child support payment compliance could not be clearer.

In addition, it is interesting to compare the overall statistics (Table 3) with the statistics for fathers with AFDC children (Table 4) and for fathers with non-AFDC children (Table 5). The "original" purpose of the federal Family Support Acts was to reduce AFDC disbursements, by getting fathers of AFDC children to pay more child support. The Census Report shows that overall per-

centage of collection of child support has not improved since 1985; neither have the percentage of collections from fathers with AFDC children and from fathers with non-AFDC children improved since 1985 [19, Table B].

Table 4: Probabilities for Fathers with AFDC Children, P(C) = 0.592*

1**	2**	3***	4****
P(J) = 0.058	P(C|J) = 0.876	P(J and C) = 0.051	P(J|C) = 0.086
P(V) = 0.460	P(C|V) = 0.752	P(V and C) = 0.346	P(V|C) = 0.584
P(N) = 0.482	P(C|N) = 0.405	P(N and C) = 0.195	P(N|C) = 0.329

Table 5: Probabilities for Fathers with Non-AFDC Children, P(C) = 0.701*

1**	2**	3***	4****
P(J) = 0.080	P(C|J) = 0.909	P(J and C) = 0.073	P(J|C) = 0.104
P(V) = 0.590	P(C|V) = 0.802	P(V and C) = 0.473	P(V|C) = 0.675
P(N) = 0.330	P(C|N) = 0.471	P(N and C) = 0.155	P(N|C) = 0.221

Clearly fathers with non-AFDC children have better child support compliance rates in all three categories (J, V, and N - compare column 2 in Tables 4 and 5). Furthermore, column 4 tells us that among fathers with AFDC children that are paying child support, the probability that one has neither joint custody nor visitation is 0.329; alternatively 2/3s of all child support paying absent fathers with AFDC children have either joint custody or visitation. Similarly, among fathers with non-AFDC children that are paying child support, the probability that one has neither joint custody nor visitation is 0.221; alternatively, 4/5s of all child support paying absent fathers with non-AFDC children have either joint custody or visitation.

In order to improve child support payment compliance for all absent fathers, and especially those fathers with AFDC children, the emphasis should be on awarding the fathers more joint custody of and visitation with their children. That child support compliance will "automatically" improve by getting more fathers actively involved in their children's lives is shown in Tables 6 and 7 following.

In Table 6, we determine the overall collection rate for child support, on the hypothesis that all fathers with neither joint custody nor visitation are given visitation; the overall collection rate jumps from 0.669 - P(C) in Table 3 - to 0.799 - P(C) in Table 6.

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Table 6: The Effect of Giving all Father's at least Visitation, P(C) = 0.799*

1**	2**	3***	4****
P(J) = 0.073	P(C|J) = 0.902	P(J and C) = 0.066	P(J|C) = 0.083
P(V) = 0.927	P(C|V) = 0.791	P(V and C) = 0.733	P(V|C) = 0.917

Lastly, in Table 7 we determine the overall collection rate for child support, on the hypothesis that all fathers with neither joint custody nor visitation are given visitation, AND all fathers with visitation are given joint custody; the overall collection rate jumps to 0.860, and, of course, approaches the 0.902 collection rate (which would be for all absent fathers having joint custody).

Table 7: The Effect of Giving all Father's at least Visitation, and Giving more Fathers Joint Custody, P(C) = 0.860*

1**	2**	3***	4****
P(J) = 0.621	P(C|J) = 0.902	P(J and C) = 0.560	P(J|C) = 0.651
P(V) = 0.379	P(C|V) = 0.791	P(V and C) = 0.300	P(V|C) = 0.349

Thus, it is NJCCR's contention that child support compliance and custody/visitation ARE connected -- demonstrably so. Though HHS chooses to ignore these facts, states could improve the collection of child support by giving more fathers significant visitation rights and/or joint custody. Of course, there are still going to be fathers who will not get either, due to the presence of other factors: such as child abuse and/or substance abuse.

APPENDIX 3: Additional Expenses of the Non-custodial Parent

When the Guidelines are used to determine child support, the total child support figure is first arrived at, then each parent's pro rata share is determined. The share that the non-custodial parent is obliged to pay is given to the custodial parent to spend on the child. The Guidelines explicitly state that this procedure is justifiable only if the custody/visitation situation is "traditional." A "traditional" custody/visitation arrangement has the children with the custodial parent about 80% of the time (and this includes the time the children spend in school), and with the non-custodial parent about 20% of the time. In this Appendix we propose to investigate the effect of nontraditional custody/visitation on the cost of raising children and the transfer of income mandated by the Guidelines.

At the outset it should be obvious that the non-custodial parent who has significant visitation is treated unfairly by an unthinking application of the Guidelines; in this example we are going to use 33% -- that is, the children are with the non-custodial parent 1/3 of their time, and with the custodial parent 2/3s of their time. Clearly, both parents have the expenses (associated with their children) that are detailed in Table 1, above. In this example we shall assume that only the custodial parent buys clothes; for all the remaining categories both parents have expenses, and we shall assume that the non-custodial parent's expenses are 1/2 of the custodial parent's expenses (as the children spend 1/3 of their time with the non-custodial parent, the expenses should be 1/3 divided by 2/3s, or 1/2) for the following categories: travel, food, household, health, recreation and restaurants. Dad's expenses for shelter and utilities should be the same as Mom's, as these costs are fixed, whether the children are in the house or not.

Suppose that Dad, the non-custodial parent earns $30,000/year, Mom, the custodial parent, earns $15,000/year, and they have 2 children; see Table 2, line 9. The total child support figure comes to $218/week which Mom spends on the children as follows, applying the percentages in Table 1.

Table 8: Mom's Expenses (Weekly)

Category	$
Travel	55
Food	39
Household	22
Recreation	20
Shelter	20
Clothes	17
Health	13
Utilities	11
Restaurants	11

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Table 8: Mom's Expenses (Weekly)

Category	$
Miscellaneous	10
Total	218

Table 9: Dad's's Expenses (Weekly)

Category	$
Travel	27
Food	20
Household	11
Recreation	10
Shelter	20
Clothes	0
Health	13
Utilities	11
Restaurants	6
Miscellaneous	5
Total	123

Table 9 gives Dad's additional expenses. Dad's net after taxes and child support is $282 per week, but he can be expected to spend an extra $123 per week on the children; this really leaves him just $159 per week to spend on himself! Even though Dad's makes twice what Mom makes, she has $160 per week to spend on herself. Out of Dad's $159/week ($684/month), Dad has to pay for HIS travel, rent, utilities, food, clothing, health, household, recreation and restaurants.

New Jersey State Library

SOURCES

[1] *1993 Rules Governing the Courts of the State of New Jersey*, R. 5:6A, mandates the use of the Guidelines; the Child Support Guidelines are in Appendix IX.

[2] Letter to Robert Braid, from Judge Eugene Serpentelli, J.S.C., dated March 23, 1990, summarizing the results of a meeting of: Robert Braid, Judge Serpentelli, Ray Rainville (Chief, NJ State Child Support Enforcement Services), Alice Stockton (Chief, NJ State Family Services), and Daniel Phillips (research analyst).

[3] The Family Support Act of 1988, Public Law 100-485.

[4] Williams, *Development of Guidelines for Child Support Orders: Advisory Panel Recommendations and Final Report*, Office of Child Support Enforcement, U.S.Department of Health and Human Services, September, 1987, page II-67.

[5] Espenshade, *Investing in Children: New Estimates of Parental Expenditures*, Urban Institute Press, Washington, 1984.

[6] *Consumer Expenditure Survey*, 1972-73, National Institute for Child Health and Human Development.

[7] Delaware, Hawaii and West Virginia use the Melson Guideline which first deducts from each parent's income an amount needed for basic living expenses.

[8] Lewin/ICF, *Estimates of Expenditures on Children and Child Support Guidelines*, Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, October, 1990, page 2-3 ff.

[9] *ibid.*, page 2-7 ff.

[10] This is the so-called Engel approach; there are others, such as the Rothbart approach, which base utility on expenditures on adult goods, and is probably more realistic as far as "assumptions" go. It has been shown that estimates utilizing the Engel approach (as in NJ) are consistently higher than estimates using the Rothbart approach, inviting the conclusion that New Jersey's Guidelines are consistently higher than they need be. See Betson, *Alternative Estimates of the Cost of Children from the 1980-86 Consumer Expenditure Survey*, Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, September, 1990. A better estimate of utility might be obtained by considering the sum of food, housing, and adult "toy" expenditures.

[11] Some recent studies have attempted to consider expenditures on children based on region; see Lino, *Expenditures on a Child by Husband-Wife Families: 1990*, Family Economics Research Group, U.S. Department of Agriculture, January, 1991, which distinguishes the Urban West, the Urban Northeast, the Urban South, the Urban Midwest, and Rural regions.

[12] Some states attempt to take into account the amount of time the children spend with the noncustodial parent, most notably California. See also Appendix 3 of this paper.

[13] Some states do take into account "second families." Subsequent spouses or partners, reflecting increased income or reduced expenses of the obligee, are taken into account in Puerto Rico and West Virginia; the needs of a subsequent dependent spouse or partner are taken into account in no states; the needs of subsequent biological or adoptive children are taken into account in Arizona, Colorada, D.C., Delaware, Kansas, Maine, Michigan, Oregon, West Virginia, and Wisconsin; the needs of step-children of the obligor are taken into account in Michigan and Oregon. See Takas, *The Treatment of Multiple Family Cases Under State Child Support Guidelines*, Office of Child Support Enforcement, Administration for Children and Families, U.S. Department of Health and Human Services, July, 1991.

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[14] These numbers come from [5] above; for simplicity we have provided only the percentages for the middle-income group, rounded off; the percentages for the lower-income and upper-income groups do not differ significantly.

[15] According to a Harvard University study.

[16] Letter from Cleveland Johnson, Jr., Regional Director (Region II) of the U.S. Department of Health and Human Services, to Richard Martin, received August, 1992.

[17] See NJCCR's Position Paper on *Custody, Visitation, and the Welfare of Children*, and Appendix 2 of this paper.

[18] Chambers, *Making Fathers Pay: The Enforcement of Child Support*, University of Chicago Press, Chicago, 1979, page 253.

[19] Statement of Ed Rocheford, Republican candidate for Morris County Sheriff.

[20] Gordon H. Lester, *Child Support and Alimony: 1989*, Current Population Reports, Consumer Income, Series P-60, No. 173, U.S. Department of Commerce, Economics and Statistics Adminstration, Bureau of the Census, September, 1991.

National Center For Protective Parents

In Civil Child Sexual Abuse Cases

1908 Riverside Drive • Trenton N.J. 08618 • 609-394-1506 • Fax: 609-394-2574

H. Joan Pennington Esq.
Executive Director

Lynda M. Carson
Irene von Seydewitz
Co-Founders

Testimony of: H. Joan Pennington, Esq.
Executive Director

NATIONAL CENTER FOR PROTECTIVE PARENTS, INC.
1908 Riverside Drive
Trenton, New Jersey 08618

(609) 394-1506
(609) 394-2574 FAX

Before: **New Jersey Legislative Committee on Divorce Reform**
Room 319
New Jersey State House
Trenton, New Jersey

Public Hearing 3 PM
November 2, 1994

Mr. Chairman, members of the Committee, I thank you for the opportunity to testify here today. I am the executive director of the National Center For Protective Parents, Inc., a non-profit, tax exempt, national resource center, located in Trenton, which was founded for the sole purpose of assisting parents who are seeking protection for their abused children in the civil courts.

I have been a family law attorney and family law specialist for eleven years. I have been certified in New Jersey as a Domestic Violence Specialist, and sit on the board of the New Jersey Association of Domestic Violence Professionals. I am a member of the American Professional Society on the Abuse of Children and the National Association of Counsel for Children.

Our Center has just completed a New Jersey attorney training program, where we trained and certified attorneys on custody cases which involved issues of domestic violence and child sexual abuse.

I come here today to testify regarding the failure of the New Jersey Courts to acknowledge the existence of domestic violence and child sexual abuse in their handling of family law cases, and the consequences of that failure.

When I began to represent women in custody cases involving domestic violence or child sexual abuse, I was appalled at the decisions of the family courts. Now, at our Center, we receive complaints about bad decisions and unbelievable horror stories, from every state in the country, including Alaska, Hawaii and the Virgin Islands. New Jersey currently rates as one of the five worst states for protecting children from incest, along with states like Mississippi, Texas, Ohio and Pennsylvania.

New Jersey judges refuse to acknowledge the existence of incest in our society and in their courtrooms. Legislation is necessary and appropriations are required to implement mandatory training for all judges who hear cases involving domestic violence or child sexual abuse.

Twenty years ago, the issue of woman abuse became a national scandal. Battered women's shelters sprang up all across the country. State and federal funding as well as funding from private foundations assisted in the fight to free women from a daily life of terrorism. Great strides have been made in the field of domestic violence in that twenty years, yet judges are still not recognizing the dynamics of domestic violence in court decisions.

Now, consider that the issue of incest today is where woman abuse was twenty years ago. If judges still refuse to consider woman abuse after twenty years of public outcry, it must be evident to you that incest does not even exist for judges in todays family courts, and their decisions reflect this. Sexually

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abused children cannot wait another twenty years to be heard in court. Judicial trainings are usually optional, and therefore, those who need it most do not choose to go. Mandatory training is crucial to the safety of thousands of New Jersey children.

Because judges refuse to acknowledge that parents rape children, protective parents are losing custody of their children as punishment for raising the child's allegations. The legal system has failed to protect children, and has failed miserably. As stated in his book, On Trial: America's Courts and Their Treatment of Sexually Abused Children, Charles B. Schudson, a Wisconsin appellate court judge states, "... courtroom justice is a 'sometime thing' in which conservative rich men make the rules and play the game for the benefit of conservative rich men. The rest, ____ elderly, poor, women, minorities and children ____ are powerless."[1]

To those who lament that the innocent are being persecuted because of malicious stories from devious children, one must respond that before judgement is made as to the innocence of the accused, we must at least listen to the accusation. These cases are viewed by judges as battles between mothers and fathers. They refuse to listen to the child, who, in the meantime, continues his or her daily life of torture.[2] These children are being denied their constitutional right of access to the courts when the

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[1] B.W.Dziech and C.B.Schudson, On Trial: America's Courts and Their Treatment of Sexually Abused Children, Second Edition, Beacon Press (1991), at 21.

[2] id, at 26.

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protective parent is routinely denied an opportunity to present evidence and witnesses to prove the child's allegations.

Judges would rather believe that a mother would "brainwash" a child to make up stories than to face the fact that incest not only exists, but is found in every culture, in every socioeconomic group, and in every class of society, including those who are educated and articulate.[3] Their seeming denial of the very existence of incest, or the belief that it only occurs in otherwise dysfunctional and poorly educated families, is simply wishful thinking. It is ludicrous to believe that a parent would "brainwash," a child to say they were abused, because once the allegation is made, the protective parent loses custody. Schudson sums it up quite well, stating, " If child victims of sexual abuse are to gain the chance for justice, those who control the courts must examine the extent to which legal traditions interfere with the discovery of truth."[4]

Judges refuse to believe allegations of child sexual abuse particularly when they are raised during a custody or visitation proceeding. Protective parents become victims of the "backlash syndrome," where, despite more than adequate evidence of the sexual abuse, the system turns on the innocent parent, denouncing that parent as "paranoid," or as "the real abuser," and custody may be granted to the abuser, or unsupervised visitation

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[3] D. Finkelhor, A Sourcebook On Child Sexual Abuse, Sage Publications (1986).

[4] See, Dziech and Schudson, supra, at 34.

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may be increased.[5] They characterize the allegations as vindictive and vengeful, even though studies show that even where allegations cannot be substantiated, they are, for the most part, raised in good faith.[6] Studies also show that false allegations are no more prevalent in divorce and custody cases than in any other cases.[7]

The most incredible action taken by judges, however, is that even where they believe the allegations, and award custody to the protective parent, they still award unsupervised visitation to the perpetrator.[8] In no other legal context is a victim of rape ordered to spend the weekend with their rapist. This is the length to which judges go, in order to protect the rights of the accused, at the expense of the victim. Only in cases where men commit violent crimes against women and children will you find such irrational and senseless reasoning.

Children are being offered up as a sacrifice to the backlash against women. Their lives of torture and terror under the control of their perpetrators continue until they are old enough to terrorize someone else. Researchers estimate that between 70 and 85 percent of child victims become sexual abusers

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[5] R. Ducote and D. Harrison, "Studies of True and False Allegations: A Critical Review," in Sexual Abuse Allegations in Custody and Visitation Cases, (Nicholson, Bulkley, eds.) American Bar Association (1988), at 246.

[6] F. Sink, "Studies of True and False Allegations: A Critical Review," id, at 44.

[7] id, at 17.

[8] id, at 246.

themselves.[9] Rape, prostitution, drug addiction and other crimes have been attributed to former victims of child sexual abuse. Schudson warns, "Thus the silence of the abused is eventually broken, and their despair and rage are acted out in ways that threaten, not only other children, but all of society."[10]

Incest does exist. Biological fathers do sexually abuse their children.[11] They may have sexual relations with their children, both boys and girls, but mostly girls, at any time between birth and adulthood.[12] Some are motivated by opportunity and weakness.[13] Some by vengeance against the mother, others by the need to hurt the weak and vulnerable.[14] Some, as described by Schudson earlier, may be venting their rage at their own molestation by a parent.[15] A few are mentally ill, while others are motivated by hatred of females, or are driven to any end, in their need for control. Others simply feel it is their right to do

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[9] See, Dziech and Schudson, supra, at 3.

[10] id.

[11] See, L.M. Williams and D. Finkelhor, The Characteristics of Incestuous Fathers, Family Research Laboratory, University of New Hampshire (1992); and L. M. Williams and D. Finkelhor, Toward A Typology of Incestuous Fathers, Family Research Laboratory, University of New Hampshire (1994).

[12] id, at 35.

[13] id, at 39.

[14] id, at 40.

[15] Williams and Finkelhor found that 70% of the incestuous fathers in the study had been sexually victimized as children, as compared to 32% of the non-incestuous fathers in the study, see Table 3.3, at 19.

whatever they want to their children (and their wives and lovers) whom they see as their private property.[16]

There is no scientific instrument or test that can discern weather or not a person is a pedophile, or whether one person has sexually molested another person. There is a profile of a pedophile in the DSM III,[17] however that only profiles one type of offender, while, as you can see just from the types I just mentioned, there are many others who can not be discerned by such methods.[18] Perhaps DNA testing, or genetic fingerprinting can be used with a high degree of certainty, however, this requires evidence such as semen, blood, hair, or other human tissue to be tested by forensic experts, but the existence of such evidence in a child molestation case is rare. Child rapists pass polygraph tests all the time, and are not admissible in court because they are unreliable.[19] The penile plethysmograph, which might have a slight elevation in rape cases, is useless to discern incest.[20]

We have been deluded into thinking that these predators are mentally ill, and should be in treatment. The results of

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[16] id, at 41.

[17] The Diagnostic and Statistical Manual of Mental Disorders, Third Edition, Revised, American Psychiatric Association (1987).

[18] See also, A. N. Groth, "Patterns of Sexual Assault Against Children and Adolescents," in A.W. Burgess, Sexual Assault of Children and Adolescents, Lexington Books (1980).

[19] T. Cross and L. Saxe, "A Critique of the Validity of Polygraph Testing in Child Sexual Abuse Cases," 1, 4, Journal of Child Sexual Abuse 19 (1992).

[20] D. Finkelhor, A Sourcebook on Child Sexual Abuse, Sage Publications (1986), at 102.

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recent studies show, however, that if they are ill, there is no known cure, or successful treatment.[21] Two major studies conducted in the United States and Canada show that perpetrators enrolled in sexual abuse treatment programs are more likely to reoffend than those who have had no treatment at all. Each time they are released from jail, the time between each new rape will be shorter. Offender treatment programs are being closed nationwide, due to this failure. The most respected judges sent offenders to treatment, instead of jail, because judges will take any alternative to sending fathers to jail for raping their children.

In conclusion, Society currently has no means by which to discover who the men are who are sexually abusing their children. When they know who they are, they cannot cure them, and yet, every day, in every family court, mothers who allege the incest of their children are called liars, flakes, brainwashers, paranoid, and vindictive bitches. To punish them for raising such disgusting issues in the family courts, judges punish the mother by awarding custody to the father, whom the child says is sexually abusing them.

Any reforms that take place as a result of these hearings MUST include changes in the way family law cases involving allegations of sexual abuse are handled. Judges must receive <u>mandatory</u> training on issues of domestic violence and incest, or they cannot be allowed to sit in judgement on cases that involve

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[21] "Another Study Finds Sex Offender Treatment A Failure, As Programs Close Nationwide," <u>Alternatives For Protective Parents</u>, National Center For Protective Parents (Summer, 1994), at 5.

those issues. And finally, children must be heard when parents abuse them, and the system must stop treating children as property. Child abuse and spouse abuse are crimes, and crimes cannot be mediated, they cannot be treated, they must only be punished.

thank you.

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Members of the Commission

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ASSISTANT DIRECTOR FOR
RESEARCH
SHARON PETERS
ASSISTANT DIRECTOR FOR
ADMINISTRATION

State of New Jersey

COMMISSION ON SEX DISCRIMINATION IN THE STATUTES

28 WEST STATE STREET
CN 095
TRENTON, NEW JERSEY 08625-0095
TELEPHONE: (609) 633-7098
FAX: (609) 633-2769

TESTIMONY BEFORE THE COMMISSION ON THE LAW OF DIVORCE

NOVEMBER 2, 1994

MARITAL PROPERTY REFORM

New Jersey is one of 41 common law property states based on the separate property model. This means that married individuals function as property owners much as if they had never married. The Married Women's Property Acts reformed the common law view that marriage suspended a woman's property rights, but it did not create any immediate rights in assets acquired if she had no title participation. In other words, she could own property if she was informed about her rights and either paid for the property herself or was permitted to own or co-own the property by her wage-earner husband.

During public hearings the Commission on Sex Discrimination held in 1979 and 1980, testimony indicated a growing interest in the marital property approach of community property states. Under a community property system, there is common ownership of property, and both spouses have equal management and control rights. In fact, the Commission found, many married people view their marriages as economic partnerships and in reality operate during the marriage as they would in a "community property" system. Those couples are rudely awakened to the reality of New Jersey law only upon divorce or the death of one of the partners, when it is assumed that any property held in the name of one partner was that partner's sole property. Of course, at the time of divorce, there is no more talk of partnership. At death, the survivor ends up fighting with executors, courts, and children instead of being allowed to grieve.

The Commission concluded that the best way to equalize rights to property that couples treated as equally owned during the marriage was to consider the adoption of the Uniform Marital Property Act, which is the most modern form of community property and has been adopted only in Wisconsin. Certainly this is a huge undertaking which

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requires the study and cooperation of the New Jersey Bar, legal scholars, and the Legislature, but its thoughtful consideration and adoption would go a long way toward conforming the rights of divorced persons to property to their understanding of their ownership rights during marriage. It would also resolve some of the conflicts that have arisen in the last decade between divorce law, which "equitably distributes" assets, and probate law, which gives more weight to the rights of the deceased property holder to distribute his income as he wished to do. These bodies of law look at property very differently, and the differences have become apparent in cases, for example, where one of a separated couple disinherits the spouse and then dies before the divorce is final. Adoption of the Uniform Marital Property Act would resolve those kinds of problems prospectively and allow for appropriate estate and prenuptial counseling.

CUSTODY AND VISITATION REFORM

I am one of the few people who will come before you, I am sure, and ask you not to change the laws of custody in the State. That is because the recommendations of the Commission on Sex Discrimination in the Statutes in this regard have been implemented; that is, the State allows but does not prefer joint custody, it defers to the rational wishes of the parents when they agree, and it looks at the parenting patterns during the marriage when deciding immediate custody so that the trauma of children is minimized. The judge must account for any decision by making findings about particular factors, so that the decision is not arbitrary or mysterious to the parties. More judicial discretion than is currently allowed would lead, I believe, to the playing out of judges' biases, not the welfare of the children. Less judicial discretion would lead to the arbitrary application of rules that may not be appropriate to the custody decision at hand. There is, however, some fine tuning that I believe is appropriate where children are at risk of abuse by their parents.

CHILD SEXUAL ASSAULT ALLEGATIONS IN THE CONTEXT OF DIVORCE

I do not believe that a parent convicted of raping or molesting any child should ever be allowed to have custody of or visitation with any child. I do not think that a parent who has been found to have molested or raped his or her child should have custody of that child or be allowed unsupervised visitation with that child or any child. Both of these situations occur under New Jersey law because of disbelief of children and women, and because of an unwillingness of courts to harm men's "rights" to their children, even when there is a known risk to that child. You will hear from accused child molesters that the charges have been made up by the custodial parent; I submit to you that total fabrication is rare, and that disbelief of children on this issue in American society, including its courts and its media and its traditional clinical community, is epidemic. The proportion of women molested by fathers as children has not changed significantly since Freud first dismissed his patients as delusional. His theory, now discredited by all but his most adamant followers, still operates to keep us in denial. When we do not say that women and children lie outright, we say they have fantasies, that they are deluded, that they have been manipulated by feminists or therapists.

Child sexual abuse is, because of the taboos and shame that surround it, one of the great unspoken, unlitigated triggers for many divorces in this society. To the extent we expend public resources on the issue of child sexual assault, I hope that this Commission will resolve the differing views of witnesses on this topic by recommending the funding of research to determine the prevalence of child sexual abuse and the development of a permanent, competent advocacy system for those children. Every day in this State, children are seen in emergency rooms with sexually transmitted diseases and genital injuries. They are not lying. Their protecting parents are not trying to get a tactical advantage in divorce. Neither are the parents of most of the children with less obvious symptoms. Characterizing this epidemic as a side issue to the conflicts of divorcing parents is easier than dealing with the epidemic, but I hope any Commission charged with reforming divorce law will not follow this red herring. We need to figure out a way to intervene in these horrible crimes against our children, because we have a responsibility to protect them, and because those children grow up to be sexual predators, child abusers, and sadistic parents.

CHILD SUPPORT

Many noncustodial parents have come before you to complain that their child support obligations are unreasonable. Even if they are right, lowering the child support guidelines that exist is no answer. Those guidelines apply to everyone, and the witnesses who have complained have not and probably cannot show that a majority of child support awards are excessive. Custodial parents, usually mothers, must provide for the children from an already disadvantaged position. As the United States Commission on Civil Rights found, "Should marital disruption occur, women with children, regardless of their previous economic circumstances, are usually poorer after the marriage fails. "The total family incomes of most divorced women and their children is less than 50 percent of their family incomes prior to divorce. Yet the custodial parent needs approximately 80 percent of the income prior to divorce to maintain the family's standard of living. Sweden, recognizing this disparity, has acknowledged that the cost of day care and the mother's work expenses actually adds to the cost, and so has legislated supplemental allowances to female heads of households to insure that regardless of structure, families do not slide into economic deprivation. Perhaps some kind of earned income credit would be appropriate in the tax code, if noncustodial parents cannot or will not support their children.

In any case, recent activity at the federal level indicates an increased emphasis on administrative rather than judicial establishment and enforcement of child support obligations, which will be implemented with the help of the newly enhanced ability of federal agencies to prosecute noncustodial parents for criminal nonsupport under the Child Support Recovery Act of 1992, so that state efforts at early resolution and collection may save obligors from later federal prosecution. Therefore I urge this Commission, if it makes any recommendations about child support, to consult with the Title IVD Agency in the Department of Human Services and find out what kinds of federal constraints there are to changes in the state system.

MEDIATION

The Commission on Sex Discrimination in the Statutes recommended as part of what became P.L. 1994, c. 94 that no mediation of the issue of domestic violence be ordered when parties seek restraining orders in domestic violence matters. The ban on mediation should be extended to cover all divorces. This ban would not mean that parties could not seek mediation, just that no one would go to mediation involuntarily.

Therefore, I hope that this body will do everything in its power to encourage the responsible use of mediation in appropriate cases, that it will use its vast resource of talent to explore alternatives to litigation that do not require the coercion of one party or the other, and that it explore ways to deal with violent relationships that protect both parties' interests better than the current adversarial system.

Domestic violence pervades the marriages in this country. Estimates are that up to 60% of marriages are violent. Many others involve emotional abuse. Although the vast majority of physical violence is perpetrated on women, there is certainly both physical and emotional abuse perpetrated by persons of both genders. Many prominent theorists consider domestic violence and other forms of violence that have women as their primary victims the glue that keeps the patriarchy in place; that is, violence is accepted as a way to keep women from having full legal and economic equality and access. Just as the threat of rape keeps women from being free to walk where they want, and blames them for any assaults that occur if they ignore the threat; just as sexual harassment, which increases the more prestigious the job, keeps women from seeking advancement; so domestic violence keeps women from being equal partners in marriage.

If this framework is correct, it will take a revolution in values before all couples can approach a divorce on an equal footing, and only then can mediation be mandated. Certainly the adoption of community property principles would diminish the current confusion of property rights with responsibility for children; better attention to the prevention of child and spouse abuse will eventually take the power plays out of the divorce courts. A quick solution to the many problems presented to this Commission, however, cannot be a good one, and I urge you to be sure that you have listened fully to all sides of this issue, that you seek consensus among those who care about it, and that you carefully research the experience of other states before recommending major changes.

2 November 1994

AJR 26 Commission
State Capitol Building
Trenton NJ 08625

To the Members of the Commission:

I am testifying today on the subject of alimony reform, which is very much in need of changes to reflect modern day realities. The New Jersey statutes relating to alimony and divorce law are deficient in many respects, namely:

a. Current statutes do not provide for rights and protections for the second spouse of an alimony or child support obligor.

b. They are vague and leave too much to the discretion of unelected officials. Public policy is not being made by the state legislature where it rightfully belongs.

c. Because of the ambiguity of the statutes, widely varying and inconsistent awards are made for divorcing couples with similar circumstances.

d. The statutes assume a world which has long since passed by, that is, it assumes that the wife cannot earn a reasonable living on her own, which is not the case today. At the time of divorce, many wives are already earning an income which provides a reasonable standard of living.

e. The statutes do not provide the same protections to the obligor of a divorce that are accorded to common criminals. The payer does not know when his financial obligation will end, his obligations can and do continue indefinitely, even past retirement at the discretion of the courts.

f. Current practices of the family courts together with the statutes as presently written are having a devastating impact on the institution of marriage. The rate of marriage is declining and the rate of divorce is rising. See the attached charts to see how bad the situation has become.

g. Public confidence in the fairness of the legal system is declining. It is commonplace for young never-married men to discuss the plight of a divorced friend who was "cleaned out" by the legal system. Marriage is seen as the road to financial suicide by many young bachelors, and the rising incidence of cohabitation and illegitimate births is the result of this perception.

A proposed bill to address the above problems is attached to this testimony.

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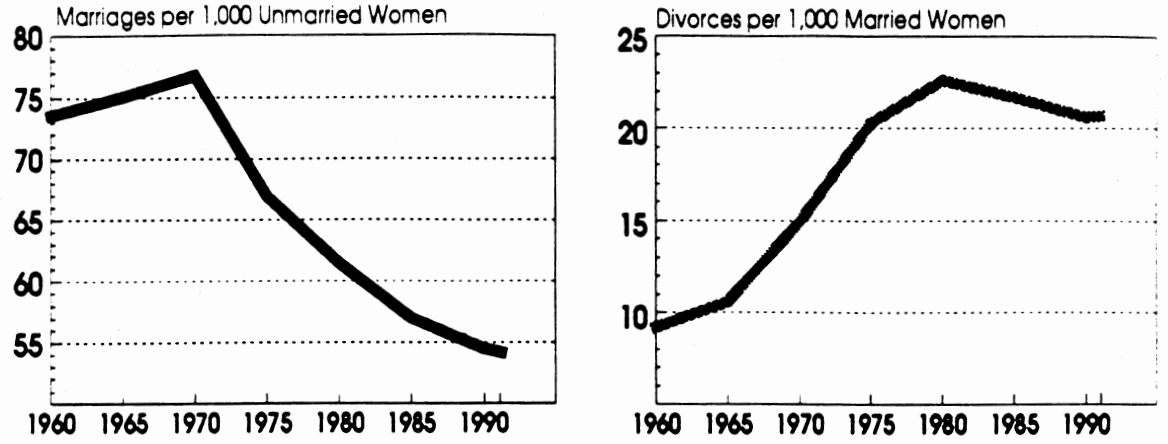
Marriage and Divorce Rates



Sources: National Center for Health Statistics.

Marriage and Divorce Rates

Year	Marriages	Divorces	Marriages per 1,000 unmarried woman	Divorces per 1,000 married woman
1960	1,523,000	393,000	73.5	9.2
1965	1,800,000	479,000	75.0	10.6
1970	2,158,802	708,000	76.7	14.9
1975	2,152,662	1,036,000	66.9	20.3
1980	2,413,000	1,182,000	61.4	22.6
1985	2,425,000	1,187,000	57.0	21.7
1990	2,448,000	1,175,000	54.6	20.7
1991	2,433,000	1,168,000	54.2	20.9

Source: National Center for Health Statistics.

Analysis: The number of divorces in America has increased nearly 200 percent in the last 30 years, while today, the percentage of people marrying is at an all-time low. According to the U.S. Bureau of the Census, in 1960 there were 73.5 marriages for every 1,000 unmarried females and 9.2 divorces for every 1,000 married females. By 1987, there were only 55.7 marriages per 1,000 unmarried women and 21 divorces per thousand married women. In 1960, 70 percent of all marriages were first marriages while today, about 50 percent are first marriages. The divorce rate peaked in the early 1980s, and by 1991 the divorce rate had dropped to its lowest point since 1979.

An urgently needed reform is the creation of a new category of alimony called term alimony. It should be awarded in those cases where the lower income spouse is already making an income to maintain a reasonable standard of living, but is awarded when that income is a specified portion of the other higher income.

Presently, permanent alimony is awarded based on length of the marriage, but the statute does not give any guidance as to what the minimum length should be for this award. Permanent alimony has been awarded for marriages as short as six years, but the usual length seems to be about fifteen or more years. Occasionally, alimony payments last longer than the duration of the marriage being terminated.

This arrangement guarantees that the ex-husband will be financially handicapped for the rest of his life, with reduced chances to enter into a successful second marriage. If he marries a woman who is receiving alimony, she will lose her alimony, but he must keep on paying his. Public policy penalizes the second wife, and favors the defunct marriage. Moreover, the ex-wife has no incentive to get remarried, because she can count on the legal system to guarantee that she will get her alimony payment. Thus, permanent alimony has the practical effect of discouraging both parties from getting remarried, which is poor public policy.

The law gives the second wife no rights at all with respect to the first wife. The first wife can create a lifetime of problems for her ex-husband and his second wife if she elects not to get remarried. If the ex-husband should complain, he is told that his second marriage is "voluntary". which ignores the fact that the first marriage was also "voluntary". Public policy should not give preferential treatment to the first marriage. If anything, it should favor current marriages and not defunct ones.

Permanent alimony is justified only if the ex-wife cannot fend for herself and cannot maintain a reasonable standard of living, which is seldom the case. For most divorcing couples, term alimony rather than permanent alimony is the appropriate public policy, and should be capped at some upper limit, like four years. This limit would enable the ex-wife to adjust to her new circumstances and give her an incentive to either increase her income or get remarried or both. In time, term alimony should become the usual award, with permanent alimony seldom awarded.

An often quoted statistic is one which claims that a man's standard of living increases 42% and a woman's standard declines by 73% after a divorce. This statistic is used to justify permanent alimony and excessive support payments. Although this statistic has been refuted years ago by attorney Jed Abraham, it still pops up time and again like a bad penny. A copy of the study refuting this statistic is attached to this testimony.

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It should be noted that permanent alimony is similar to permanent welfare. Present draft legislation in the U.S. Congress would outlaw permanent welfare, and proposes to limit welfare to two years. Why should a divorced obligor be expected to provide more generous benefits than the government? The rationale for this reform is to end the cycle of dependency of welfare beneficiaries and should also apply to alimony.

One of the most serious deficiencies of current divorce law concerns the standard of living clause, which all too often is applied only to the party receiving financial support with no regard to the impact on the paying party. For that reason, an important reform requires that awards shall not impair the ability of the obligor to pay his or her reasonable living expenses.

The current requirement to maintain the standard of living attained during marriage is totally unworkable, for several reasons. First, it is impossible to maintain the same standard of living when two incomes which once maintained one household are now required to maintain two households. Second, the standard of living attained during marriage cannot be measured.

Another area in need of reform is that relating to retirement. Current case law provides that alimony may cease upon retirement, however, this requirement is subject to interpretation by the courts, and alimony can awarded beyond retirement if the courts so decide. In my own case, I was ordered to pay permanent alimony and the divorce decree did not provide for termination at retirement. Consequently, I cannot plan my retirement.

The remedy in this case and many others is to include a provision in the statutes which mandates unconditional termination of alimony at retirement, along with death and remarriage of the ex-spouse receiving support.

I would like to thank the members of the Commission for their time and attention.

Submitted by:

Harry Mogensen
128 Watergate
Maple Shade NJ 08052

Attachments:

1. Charts are from the Heritage Foundation publication "1993 Cultural Indicators"
2. Draft legislation from current New Jersey Statutes relating to divorce. Proposed changes underlined.
3. "The Divorce Revolution Revisited" by Jed Abraham Esq Published in Northern Illinois University Law Review. 1989 Volume 9 Number 2

New Jersey State Library

75X

SENATE NO. ????? (10/31/94)

STATE OF NEW JERSEY

Introduced by Senator ??????

AN ACT protecting the rights of the alimony obligor and his or her current spouse.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. N.J.S. 2A:34-23 is amended to read as follows:

b. In all actions brought for divorce, divorce from bed and board, or nullity the court may award permanent, rehabilitative, or term alimony to either party, and only in those cases where there is a substantial difference in the incomes of the parties. The following factors shall be considered in determining the type of alimony to be awarded:

(1) Permanent alimony may be awarded in those cases where the obligee in a long-term marriage has insufficient income to maintain a reasonable standard of living in the foreseeable future due only to physical or mental handicaps, or other provable lack of employability. Income to sustain a reasonable standard of living is defined as twice the federal poverty level.

(2) Rehabilitative alimony may be awarded in those cases where the obligee in a short term marriage lacks the work skills to earn an income to provide a reasonable standard of living. The term of alimony shall be determined by the time necessary to acquire education or training, and the time to find appropriate employment. Payment of alimony is contingent on satisfactory completion of aforesaid education or training.

76X

(3) Term alimony may be awarded in those cases where the obligee has no income or an income which will provide a reasonable standard of living, but earns two-thirds or less than the income of the obligor. The term of alimony may vary according to the length of the marriage, but shall not exceed four years.

The amount of alimony awarded shall be determined by the following factors:

(1) The ability of the obligor to pay without impairing the ability of the obligor to pay his or her reasonable living expenses;

(2) The difference in the amount of the incomes of the parties;

(3) The expense necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;

(4) The opportunity to acquire future assets and income;

(5) The equitable distribution of the property ordered and any payouts on equitable distribution, directly or indirectly, out of current income, to the extent that this is reasonable, just and fair;

(6) The history of the financial and non-financial contributions to the marriage by each party including those for the care and education of the children;

(7) In the case of mental or physical disability, the court may consider the possible burden upon the State where the obligee is or may be institutionalized;

(8) Any other factors the court may deem relevant.

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When a share of a retirement benefit is treated as an asset for purposes of equitable distribution, the court shall not consider income generated thereafter by that share for purposes of determining alimony. If the alimony obligor has remarried, the income of his or her spouse shall not be considered by the court for purposes of determining alimony.

An award for permanent or rehabilitative alimony previously stated may be modified based either upon changed circumstances or upon the non-occurrence of circumstances that the court found would occur at the time of the alimony award. An award for term alimony is not modifiable and the date for termination of such shall be set by the court when the award is made.

In all actions where a judgement of divorce or divorce from bed and board is entered, the court may make such award or awards to the parties, in addition to alimony and maintenance, to effectuate an equitable distribution of the property, both real and personal, which was legally and beneficially acquired by them or either of them during the marriage. However, all such property, real, personal, or otherwise, legally or beneficially acquired during the marriage by either party by way of gift, devise, or intestate succession shall not be subject to equitable distribution, except that interspousal gifts shall be subject to equitable distribution.

2. N.J.S. 2A:34-25 is amended to read as follows:

If after the judgement of divorce a former spouse shall remarry, permanent or term alimony shall terminate as of the date of the remarriage except that any arrearages that have accrued prior to the date of remarriage shall not be vacated or annulled. The remarriage of a former spouse receiving rehabilitative alimony shall not be cause for termination of the rehabilitative alimony by the court unless the court finds that the circumstances upon which the award was based have not occurred or unless the payor spouse demonstrates an agreement or good cause to the contrary.

78.X

Alimony shall terminate upon the death or retirement of the payor spouse, except that arrearages that have accrued prior to the date of payor spouse's death or retirement shall not be vacated or annulled.

When the income of the payor party ceases or falls below the income of the party receiving alimony, due to involuntary unemployment, the obligation to pay alimony shall be suspended until such time as the payor regains the ability to pay.

3. N.J.S. 2A:34-26 is amended to read as follows:

When a spouse cannot be found within this State to be served with process, the spouse's estate, property and effects within this State and the rents and profits therof may be attached to compel the spouse's appearance and performance of any judgement or order may be made in this action. Where the proceedings are by process of attachment and the defendant does not appear, the judgement shall be enforceable only out of and against the property attached. If the delinquent spouse has remarried, the marital residence may not be attached and is exempt from judgement.

4. This act shall take effect immediately for all alimony and related awards made after this date. For alimony agreements already in force, this act shall take effect and shall apply in four months after this act shall become law.

DOMESTIC RELATIONS

Alimony

Amends matrimonial law concerning alimony, attachments, and arrearages.

79X

JOHN B. McCARTHY
31 Navesink Drive
Monmouth Beach, N.J. 07750
Phone: 908 870 0118
Fax: 908 870 9220

TESTIMONY FOR THE COMMISSION TO STUDY
THE LAW OF DIVORCE

Assemblyman Walter J. Kavabaugh
Senator Robert J. Martin
Nancy J. Benz
Carol Bishop
Robert R. Broderick
Sara Flohr
Douglas K. Schoenberg, Esq.
Irene von Seydewitz
Frank A. Louis, Esq.
Jeffrey S. Blitz
Honorable Marianne Espinosa Murphy

RE: Superior Court
Monmouth County
Docket No: FM-13
-15318-87

My experience with Divorce in the State of N.J. began in 1986. Since that time I have experienced an unnecessarily protracted two year Divorce proceeding and a three and one half year legal debacle in my attempt to reduce alimony based on seriously changed financial ability. Given six years, innumerable motions, six attempts to incarcerate me, and appearances before six Judges I feel I have a good grasp of the problems with the 'system' as it now stands.

There are three areas that need to be studied, analyzed, modified and/or changed so that the law serves all equally and justly. Family Court in dealing with Divorce is operating in a vacuum (at least in Monmouth County, the sole area of my experience).

1. **THE LAW ITSELF** - Based on my own experiences and watching other cases as I cooled my heels waiting for my case to be heard it would appear that the approach taken by most Judges is that the man is guilty until proven innocent. Times have changed. Women rub elbows with men in the workforce at every level. Women have rightfully demanded to be and are more independent than ever except when it comes to Divorce. The Courts general approach is that women are defenseless victims who have been put upon by a wicked male and it substantiates that stand by quoting prior cases as precedent.

2. **THE JUDGES** - The six Judges I have appeared before are middle to late middle aged men. They have obviously been on the Bench for some time. They are inundated with work and are so engrossed with their tasks that they are isolated from the world they live in and make judgements for and about.

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They have very comfortable salaries, generous benefits rarely matched in private industry and lastly and most incredibly, most are 'tenured'. Regardless of their performance it is extremely difficult to remove them from the bench. How can they understand conditions in the 'real' world? What do they know about today's economy or work trends? I am convinced that they never read the Headlines or the Business Section of a paper and they never turn on CNN. I am sure that this statement is not true of all Judges, but my experience of being before six Judges indicates five of the six appear to operate in this vacuum. What is the solution? Simplify the Divorce laws and procedures allowing panel and subject negotiation and settlement (if the Lawyers will permit this) keeping all but the most difficult and complicated cases out of court.

3. **THE LAWYERS** - In my experience, Lawyers are by far the biggest obstacle to settlements between litigants in Divorce cases. I must make it clear now that my statements do not apply to all Lawyers. There are many who uphold the Rules of Professional Conduct. There are however many who do not. I have had personal experience with Lawyers who tell outright lies in Court. If I do that I perjure myself and am subject to fine or imprisonment or both. I have been the subject of twisted and deviated statements that served no purpose other than to create more litigation and more legal expense. The worst part of this is that the 'good' Lawyers won't blow the whistle on the 'bad' lawyers. There is this 'old boy syndrome' that seems to forbid the Legal community from policing its own. If this panel does nothing else, it must address this portion of the problem.

The above comments may seem some what generalized, however, I will now apply them to specific instances as they have affected my case.

I was divorced in 1988 and alimony of $30,000 per year was awarded to my ex-wife along with 50% of our joint savings, and my profit sharing program. I was awarded a $10,000 portion of her legal fees and $17,000 of my own. The divorce hearings were unnecessarily dragged out over 2 1/2 years by lawyers bickering and filing ridiculous motions.

Case in point: The Court told us to sell the house and split the proceeds. My ex-wifes lawyer told her to sit tight. Why sell when you can collect $250.00 per week Pendente Lite, $90 per month for phone, $75.00 per month for gasoline while your ex-husband pays all the roof bills (mortgage, taxes, utilities)? Buyer after buyer was turned away because my ex-wife would not agree to the selling price. When I complained to the Court, it ordered an un-involved Realtor to evaluate the house and determine what was a justifiable selling price. Even after that, sales offers were refused when

Realtors repeatedly advised that we were getting the best price we could expect. Finally, because I could no longer stand the financial burden I had to offer my ex-wife a special 'signing bonus'. I gave her $12000 of my share of profits in order to get her to agree to sell the house. This position was based on the advice of her lawyer who is notorious for these kinds of actions.

Case in point: The Early Settlement Panel recommended a lump sum settlement of $27,000 per year. I agreed to it but ex-wifes lawyer said "No way, we're going to take this go the distance". The result was that the case dragged out over 2 1/2 years at a cost to me of $27,000 in legal fees. This was a simple case. There was a house with two mortgages on it, a small joint savings account, a small IRA account, two cars (one leased for business) and a lot of bills. (I had been putting three children through college.). There was no huge investment portfolio, no Swiss bank account. I was a employee. My income was easy to prove, yet my ex-wifes lawyer insisted I was hiding huge sums of money. Even after the President of the Company I was employed by wrote a letter stating my precise income over a three year period this lawyer continued to insist that I had more money than shown on my W-2 or Income Tax returns. No matter what I presented to the court to prove my earnings and holdings (or lack of them) the position of the court was 'your guilty until proven innocent and because your ex-wifes lawyer doesn't think you innocent, your not) It is no secret that my ex-wifes lawyer and the Judge involved in the case are close friends, mix socially and play golf together.

Case in point: In order to sell the house it was important to maintain it and to take care of the grounds. I had always done this work myself. My ex-wife never participated in the physical upkeep of the home or garden lawn. Although I was not living in the home and was forbidden entry by court order (my ex -wife convinced the court that I was harassing), I would come to cut the lawn. My ex-wifes lawyer successfully convinced the court that this constituted harassment even though there was absolutely no contact with my ex-wife either verbally or visually. How was I supposed to keep the house up? This may seem miniscule and petty but when your desperately trying to sell a $200,000 home it is not.

THE SYSTEM & POST-DIVORCE

In June of 1990, as the recession was building I was the victim of a Corporate takeover and down sizing. I lost my position of 10 years as Sales Mgr of a home textiles firm. It was the first time in my life that I had been fired and was a phsychological blow. Although I only received five months severance and it took six months for me to find another

position I continued my alimony payments of $2500.00 per month. In January 1991 I began a new position as National Sales Mgr of a Company in very bad financial condition. It was a high risk position but the only job I could get. I was hired over 268 applicants. Within three months (March 1991) the Company closed its doors permanently. I was out of work again at the age of 54 and the recession was in full swing. Despite great efforts to obtain employment that would pay a salary equivalent to what I had been earning I could not even get a position paying 1/3 of that.

In June of 1991 in answer to a court order filed by my ex-wife I represented myself pro se in an effort to obtain a reduction in alimony. This was the beginning of a now 3 1/2 year struggle to obtain a reduction that was clearly called for based on a severe change in circumstances. I have been before five different Judges all of whom have treated this case like a 'hot potato' and there is still no decision.

My inability to find employment during this recession caused me to join my wifes business (I remarried in 1988) in August of 1991. Julie A. McCarthy Allied ASID is a professional Interior Designer. She also had a sales agency representing manufacturers of furniture. My background in sales and marketing permitted me to join her business and help to grow it. It was a matter of finding more of the right products and companies to represent and then getting the word out to potential customers. Julie's business was relatively new in N.J. since she lived and worked in Charlotte N.C. when we were married. Today our business is focused on providing Healthcare facilities for the elderly with needed design and furniture at greatly reduced prices (since they purchase directly from the manufacturer). The business gross earnings have gone from $28,000 on October of 92 to $36,000 in October of 93 to $67,000 in October 94. Clearly there is a substantial growth pattern. It is important to note here that these earnings are the result of two people efforts one of whom is not responsible for paying alimony to my ex-wife. Everyone knows that a relatively new business must struggle for several years before it is successful, (everyone but the Court).

Various orders emanated from June 1, 1991 as a result of applications by my ex-wife for enforcement of alimony rights. Once again I was forced to retain legal counsel to represent me and a motion was filed seeking reduction in alimony because of inability to earn income at the level in existence at the time of the Judgement of Divorce. The Court denied an immediate reduction in alimony, without prejudice but ordered the exchange of financial documentation on both sides, for the parties to meet within 30 days to resolve the

issue of reduction and if same could not be resolved, for the Court to schedule a conference to determine whether a Plenary Hearing would be necessary. Evidence at trial disclosed that I was a sales manager and marketing specialist in the textile industry for all of my career. At the time of the final Judgement of Divorce I earned a gross income of $90,600. In 1991 the joint gross income of me and my present wife was $36,699. Further evidence showed that at the termination of both positions (previously referred to) that I conducted an extensive job search. These were clearly documented in writing including interviews, phone calls, resumes sent, fax's, etc. Further evidence was offered by testimony from Robert P. Wolf, M.B.A, E.D.M. ana employment specialist whom I had interviewed with for the purpose of determining my best course of action to obtain a position comparable to my skills. His testimony indicated that the textile industry had been hit hard, that my age would effect my re-employment, and that economic conditions made it unlikely that I would be able to obtain "upper management" sales positions earning what I had previously earned. He projected my income for 1992 at a maximum of $31,000 per year.

Because of extensive counsel fees incurred over a three year period from the date of my initial application through the date of judicial determination I agreed to the submissions of documents to the Court as opposed to a testimonial hearing. Both lawyers (mine and my ex-wifes) presented the Court with voluminous records and documents in support of our respective positions resulting in a Letter Opinion of the Court on March 23, 1994. Each party consented to the other's exhibits.

Four issues were to be determined by the court:
A. A retroactive reduction in alimony to June 21, 1991 (which would have resulted in substantial reduction/elimination of alimony arreages).
B. Prospective reduction alimony.
C. Reduction in life insurance obligation proportionate to reduction in alimony.
D. Counsel fees and costs of suit.

There was a clear agreement between the parties and the Court that it was expected that the Court would request testimony on any issues or documents that were not clear or needed explanation. **The Court required no explanation and yet made a determination of credibility issues without giving me an opportunity to explain or qualify same.** Despite my clearly documented change in circumstances the Letter Opinion stated that I must continue to pay my ex-wife $30,000 per year in alimony (more than I net), I must immediately pay $60,000 in

arrearages. (I must make it clear that alimony was being paid on a regular basis but at a reduced level), maintain a life insurance policy with my ex-wife as the beneficiary in the amount of $250,000. The court ordered a freeze on all bank accounts of John B. McCarthy, Julie A. McCarthy, and McCarthy Associates, and any account held jointly by John B. & Julie A. McCarthy. The Court seized a $25,000 investment of Julie A. McCarthy clearly documented as profits from the sale of her home in Charlotte N.C., and turned it over to my ex-wife. Try running a business without access to funds. Try paying your mortgage, your utility bills or putting gasoline in your car without access to funds. *DESPITE CLEAR EVIDENCE OF ALL OUR FINANCES, THEIR SOURCE, AND CLEAR AND UNREFUTABLE EVIDENCE THAT I COULD NO LONGER MEET AN ALIMONY OBLIGATION OF $30,000 PER YEAR THE COURT STRIPPED US NAKED, TIED OUR HANDS, PREVENTED US FROM DOING BUSINESS TO EARN AN INCOME, PUT A LOCK ON CLIENTS MONEY IN OUR BUSINESS ACCOUNT AND SAID "WE DON'T CARE, PAY OR YOUR GOING TO JAIL"* This happened in late May 1994. The freeze was not lifted until August 4, 1994 and our joint checking account is still frozen.

It is obvious that the Judge who wrote this Letter Opinion never read the documentation we supplied. It is obvious that he was overwhelmed with by the appeal of a lawyer who in representing a recovering alcholic ex-wife and by deceit influenced the senses of this Judge to render the opinion he did. **In so doing his decision clearly deviated from the evidence presented:**

A. The Court failed to acknowledge that the plaintiff/respondent left the sale of the marital home with proceeds well in excess of my own.

B. The Court considered certain records and information to demonstrate my alleged ability to continue full alimony payments at a time when alimony payments were current.

C. The Court failed to consider that my present wife operated the business of McCarthy Associates before I joined her and that she had an individual and full-time earning capacity of her own.

D. The Court improperly imputed a sum of $22,798 briefly placed in a joint marital account on a an interim and very temporary basis as income available to meet my support obligation when in fact these funds constituted liquidation of pre-marital assets of my present wife.

While most of the facts presented in this case were largely undisputed, issues of credibility were rendered paramount and were determinative without my being given an opportunity to testify on the credibility issues raised and to confront the evidence being interpreted.

It is clear and uncontroverted that a new spouse does not have any financial obligation to support his or her

spouse's ex-wife or ex-husband. For the Court to impose liens upon the income and assets of my present wife is not only without justification but outside the scope of N.J. law. The Court not only raised credibility issues but suggested a "conspiracy" between me and my present wife without ever meeting or questioning me or my present wife, and imputed ulterior motives to our financial structure. The Court was obligated to inquire through testimony into the business circumstances and the involvement of Julie A. McCarthy prior to imposing any lien on her income or assets. The failure of the Court to so inquire constituted an abuse of discretion and harmful error which necessitated my present wifes intervention in order to avoid irreparable harm to her personal financial position.

Now there are two lawyers involved and more expense. Julie had to retain her own attorney to protect her interests.

An 'Ability to Pay' hearing was scheduled with the same Judge who wrote the Letter Opinion. In chambers he admitted to four lawyers that he had no business acumen, and despite the clear and easy to understand evidence that both we and our accountant produced he did not understand the business of McCarthy Associates and he totally dismissed the uncontrovertible evidence provided by Mr. Douglas Stives, Senior Partner in Curchin & Co, and one of the most respected accountants in the State of N.J. He then appointed an non interested Lawyer who specializes in business finance to analyze our business and report his findings to the Court. This was done and a report submitted which stated exactly what we had told and revealed to the Court. That hearing ended on September 6, 1994 and as of November 2, 1994 we have no decision from the Court. Subsequently the Court has awarded legal fees in excess of $2500 to be paid 3/4 by McCarthy Associates and 1/4 by me. We are appealing this by motion because:

1. No new evidence other than what we had previously presented was offered.
2. McCarthy Associates was never a party to the case, how can it be charged?
3. It is through the Courts inability to understand and the efforts of the other side (my ex-wifes lawyer) to confuse the issue that the Court felt it necessary to hire this expert.

RESULTS TO DATE OF A THREE YEAR STRUGGLE

* Legal Fees for John B. McCarthy - in excess of $30,000
* Legal Fees for Julie A. McCarthy (present wife) - $8,00
* Legal fees for Mary E. McCarthy (ex-wife) est @ $40,000
* Estimated loss of time to a new business - 90 to 120 days
* Loss of all pre-marital assets of Julie A. McCarthy
* Protracted emotional upheaval for all parties concerned documented by Doctors and causing various physical ailments
* An expensive appeal to the Appelate Division of the Superior Court to overturn the Letter Opinion and grant a reduction of alimony

WHERE IS THE JUSTICE? (other than in the lawyers pockets!)

Respectfully submitted,

John B. (Jack) McCarthy

112X

TESTIMONY OF JULIE A. McCARTHY
Intervenor in McCarthy vs. McCarthy
November 2, 1994

My presence here reflects my frustration to a system which has totally disregarded my constitutional rights. I am an innocent person in the proceedings of McCarthy vs. McCarthy.

I happened to be married to the defendant in the above proceedings which has an arduous history (since 1986) which has been detailed in the testimony of the defendant John B. McCarthy.

My participation in the proceedings began last spring when Judge Robert Coogan issued his letter of opinion. This opinion which was read on March 23, 1994 maligned my character and made untrue accusations. I have been stripped of my personal assets and my business and personal life have suffered. I was never asked for testimony or was I ever part of the proceedings. I was made a party to the proceedings through this letter of opinion. I have always produced all documentation required which had to do with McCarthy Associates of which I am President. The defendant is an employee in this business. His testimony will explain the circumstances which lead to his employment in McCarthy Associates. All of my financial records both business and personal have been torn apart by the plaintiff's lawyer. My records are never returned in the neat and orderly fashion in which they were given. I have been without personal checking account records (originals) now for over 6 months.

I will try to give a brief orderly testimony surrounding these circumstances:

1. I received approximately $22,798.00 proceeds from a premarital residence in Charlotte, N.C. This money was commingled with my husband John B. McCarthy for approximately 10 months while I decided how to invest these funds. I opened an account solely in my name at Mclaughlin Pivin. Because these monies were commingled they are no longer considered mine and as the Judge states "I am satisfied that that asset is usable for the purposes of reducing arrearages to the plaintiff." **I was forced by the court on April 10th to liquidate my investment account at a loss of approximately $4500.00 and turn the funds over to Mary E. McCarthy.** What is the system trying to do to innocent bystanders. I was never asked for any testimony prior to this decision. My only asset has been stripped from me to pay alimony arrearages of someone I was never married to! My records clearly show where these monies originated. Will I ever see that money again?

2. Apparently my earning ability has no bearing as Judge Coogan's letter of opinion states "I am satisfied that the crux of this case lies in an examination of McCarthy Associates and Mr. McCarthy's involvement in that entity. First

TESTIMONY OF JULIE A. McCARTHY

of all I categorically reject any assertion that's been proffered by Julie A. McCarthy that any part of her income for the years 1990, 1991, or 1993 are somehow attributable to an entity The court states " As far as I am concerned the question of what was -- the argument that Julie A. McCarthy proffers, that there should be a segregation of her income either freestanding or standing within McCarthy Associates, I don't accept that" **How can this statement even be made? This is my business and I am a professional interior designer since 1975.**

The company was incorporated in October 1991 as Julie A. McCarthy, Inc. DBA McCarthy Associates. I was no longer doing business as Julie A. McCarthy Interior Design. This should not make the monies I earn assessable for alimony even though John B. McCarthy works for this company.

The Judge has made a decision based on records submitted (which were as result of a notice to produce - not complete records) even though he made the statement **"I have no business acumen". How can someone who admits he doesn't know anything about business make a decision on how it is operated?**

My earning ability has been completely ignored and my income has been assessed for alimony. I HAVE NEVER BEEN MARRIED TO MARY E. McCARTHY! WHY SHOULD I CONTRIBUTE TO HER SUPPORT? She has a college degree just as I do, why can't she get a job? I must work to contribute to my support and the same should apply to her. No one is "owed" anything! Should the "system" encourage a healthy well educated person to do nothing! Shouldn't one be required to contribute to their support if they have the ability? This is why our welfare system is a failure. Our system needs to address this issue and take their head out of the sand!

3. I was accused of being deceitful when I changed banking institutions without being asked why. The bank changed it rate schedule which was detrimental to a small business, what was I supposed to do? Should I be called deceitful for this?

4. I have been cited by the Judge for writing checks for cash and depositing them into a joint bank account. Why should I work if I can't write checks in order to pay my bills? Should I work for the pleasure of it? I was even cited for writing a check to my daughter who is a full time student at Old Dominion University. Can't a parent help to support a child who is working and going to school?

5. The Judge has even made suppositions - "The records, 1993 bank records, they were not before me but there 's nothing to suggest that the pattern would have been any different for that year." How can a system make a decision which so radically alters someone life without asking for the proper documentation?

TESTIMONY OF JULIE A. McCARTHY

The Judge is making me a party to this because I own the business and happen to be married to an employee. When one assumes, that person is the first three letters of the word assume!

Nothing was ever hidden from the court. McCarthy Associates supplied all materials requested by notice to produce motions time and time again. We have been before 5 judges.

6. The court appointed Timothy Newman as a fiscal agent to investigate McCarthy Associates. He found nothing new to present to the judge except the fact that I, Julie A. McCarthy do indeed contribute more than 50% of the earning capacity of McCarthy Associates. Mr. Newman spent 2 days in our office to complete his findings.

His bill to the court $2725.00 has been assessed to McCarthy Associates to the tune of $1825.75, $899.25 to Mr. McCarthy and none to the plaintiff, Mary E. McCarthy. The court ordered the use fiscal agent based on the half truths and twisted reality submitted by the plaintiff's lawyer. Should our system permit lawyers to "lie" under oath? Certainly we as citizens under oath are not permitted to "lie" why should the legal system be immuned? Mr. Newman found nothing new. **Why than should I Julie A. McCarthy, Julie A. McCarthy, Inc. DBA McCarthy Associates be assessed 2/3 of the bill?** I have provided all information requested and did not have legal representation.

I have since been forced to hire counsel and proceed as the intervenor at my own cost.

7. The court in its infinite wisdom choose "A freeze on all checking or savings accounts in the name of John B. McCarthy, Julie A. McCarthy, McCarthy Associates or Julie A. McCarthy Inc., an immediate seizure of the investment at McLaughlin Pivin, and mandated signature of both John B. McCarthy and Julie A. McCarthy so as to turn over that investment to the plaintiff." The account at McLaughlin Piven was in my name alone as it was my money! **John McCarthy never had signature to this account. I was never given a chance to defend myself and further more why should the plaintiff be entitled to my premarital assets? Should I be forced by the court to take a loss of over $4500.00 in addition to the insult of giving my hard earned money to someone who chooses not to work and to whom I have NO obligation?**

Besides seizing my premarital assets the court choose to shut down my business! You can not run a business with the bank account frozen. The court said "My intent is not to frustrate he day by day operation of McCarthy Associates." Does the court know what it said and what it did were in total opposition to one another? Clearly the Judge has no business acumen as he stated.

Also my personal accounts were frozen. **What has my**

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personal account got to do with alimony to the plaintiff? Am I responsible for her alimony?

As of this testimony our joint account is still frozen. Can the court in good conscious ask people to go about their business with a seven month freeze on the checking account? Needless to say the aggravation and the extra cost involved in operating this way for this length of time.

8. My character and reputation was also slandered by the court in saying that I "worked in concert" with Mr. McCarthy in order to keep him off the books. I did no such thing and I was never asked for any testimony. This violates my constitutional right to be heard!

The "system" in this state of New Jersey has done irreparable harm to me financially, mentally and physically. My assets have been dissolved, my legal bills are in the thousands of dollars, the stress has caused havoc with my health and I have suffered from bouts of depression which have effected my ability to work.

What is an individual such as myself supposed to do? Where do I turn? How does one go about getting JUSTICE? The system has chosen to ignore my plea for my just rights.

TESTIMONY BEFORE THE COMMISSION ON DIVORCE REFORM
on November 2, 1994 by Valerie H. Geibel, Ph.D., resident of Madison, New Jersey.

I was "thirty something" and left with an infant daughter, two young children, and stage two breast cancer at the start of my divorce. I tried to carry on while selling my home of eight and a half years (finances were difficult), pull through two operations and chemotherapy and find a full time job, all with no family to offer support (my friends were wonderful). Nothing in my life to that point had prepared me for this experience or what was to follow in the courts. I can tell you it was no fun.

My husband, an attorney himself, suggested that we work out an agreement between ourselves concerning our property and children. What at first seemed relatively straightforward later turned into a morass involving legal tricks, huge expenses, and a child custody battle. I spent over $5,000 writing and rewriting an Agreement which was never discussed in its final form. Being by *his* choice in default of the court, my husband hired an attorney and began litigation even though forwarding one consent order would have been more expeditious.

At this point my first attorney, whom I now owed an additional $6,000, said that she could not effectively represent me. I had hired her for legal advice and to draft an Agreement not to litigate in Morris County, she said. I was referred to a local attorney and required to pay her a retainer of $3500. I took a cash advance on my credit card to pay it (as I had to do from time to time to cover living expenses). My husband dropped me from his health insurance plan on December 1, 1993, *even though it would not have cost my him a penny* to provide coverage. He also arbitrarily reduced his voluntary "child support payments" by $1500 a month without prior notice or explanation. My new attorney told me that I was beginning the divorce process at "square one" again.This time, however, I had an outstanding debt of approximately $15,000, there were many ill feelings between myself and my spouse, I had experienced a great deal of stress, and our children were badly frightened.

I will never forget what my youngest daughter who entered Kindergarten this fall said as I was packing her for a weekend visit with dad one time: "But, mom, I don't want to go to his house! **We hate daddy, don't we."** This I feel is the message my involvement with the family court system has communicated to my son and daughters. It encouraged each parent to fight the other and depleted our already strained financial and emotional resources. My children, innocent bystanders to an unfortunate battle, suffered emotional pain on a daily basis.

Today, more than three years later, I am in a desparate situation. My husband still is refusing to negotiate, this time refusing a four-way conference. (It is to his advantage to delay legal proceedings as long as possible since he has the emotional and financial support of his family and I have neither.) I do not have a pendente lite order in effect, since my first attorney advised me to discuss rather than litigate and my second attorney is preparing one but court action "takes time." I have less than $60 in the bank and many outstanding bills, I have been "bullied" by collection agencies, and now cannot afford my COBRA health insurance which costs $267/month. My attorney told me that I probably would have to pay another $3000 to $4000 for settlement, much more if it goes to trial..

TESTIMONY BEFORE THE COMMISSION ON DIVORCE REFORM
on November 2, 1994 by Valerie H. Geibel, Ph.D., resident of Madison, New Jersey.

I resent that noone has ever reprimanded my husband for draining my financial resources and then arguing that he can provide for the children financially better than I. **My husband and I did benefit from the court provided child custody mediation eventually suggested by our attorneys**. We have reached a tentative agreement on that issue *which he still has not signed*. However, I was told by my husband that if I moved away from Madison because of debts resulting from this case, he would reopen the child custody issue.

In summary, I believe that involvement in the family court system focused us both on what we wanted to "win" or had to "lose" rather than on what the process was doing to our children. There should be a safe way for ex-spouses to express their anger and frustration and work out problems without dragging each other through the courts. All it seems to take in my opinion is one spouse who wants to "hurt" the other and everybody loses except the lawyers. And nobody so far has been willing to slap an attorney representing an attorney on the hand, even when children are hurting.

In conclusion, I would like to summarize my opinions:

1. I think that spouses of attorneys seeking a divorce should have access to reasonably priced but high quality legal advice;

2. Legal tricks and financial resources should not be allowed to determine who "wins" in court and who is the "better parent," something should be done to "level the playing field;"

3. I feel that someone must someone must be involved from the very beginning to protect the most vulnerable and innocent "victims" in each divorce case, the children;

4. Some kind of *real sanctions* should be imposed on any spouse who drags his kids unnecessarily through family court, perhaps even repeatedly;

5. Certain family assets should be protected from the lawers and courts, such as equity in a primary home, children's college funds, or more generally any cash reserve which guarantees the financial well-being of the separated family.

6. I like the idea of a "cap" on divorce costs, i.e., imposing a reasonable financial limit beyond which costs could not go;

Thank you very much for this opportunity to express my frustration and tell my story.

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TESTIMONY BEFORE THE COMMISSION ON DIVORCE REFORM
on November 2, 1994 by Dominick R. Romano, resident of Madison, New Jersey.

The following is a letter that my daughter wrote in December, 1993:

(*see attached*)

At the time my daughter wrote this letter, my former wife and I had been divorced for over a year. Our relationship at the time and to this day is one of the best post divorce situations I have yet encountered. Yet my daughter's strongest desire was that her mother and father be together. The problem is in many divorce situations, spouses are entwined in such bitterness and vindictiveness that they therefore lack consideration for not only each other's feelings but for the feelings of their children.

These types of situations prevent most children from expressing the type of feelings that my daughter has expressed in this letter, feelings that will stay buried deep within themselves and that will effect them for the rest of their lives. We are only kidding ourselves as adults and as a society in general if we continue to be so naive to not understand that these are our children's' strongest wishes. Anyone outside my daughter's immediate family would see her as a happy, normal child. Yet at quiet moments when she has time to reflect, these emotions surface.

My daughter and many of the children whose parents have testified before you will never have their deepest wishes come true. No one here can ever put the total blame on the judicial system or those who have established the laws that govern the family courts. We must all take responsibility for the slow destruction of the American family. We have allowed society to foster a complete lack of commitment, not only in marital situations but in all aspects of our daily lives. As long as we have a system in place that allows one spouse to completely ignore the commitments they have made to their partner and to the family, we are teaching our children that we truly have become a throw-away society.

We must create a system where that process would begin, at first trying to keep the family together, teaching them how to work out their problems and most importantly to understand that they must have a strong commitment to their children above all else. Our children have no say in whether they come into this world. Parents must be made to understand not only how important the decision for having children is, but how devastating divorce is to them.

Therefore, although the solution is not an easy one, I feel the first step must be to take the problems that spouses face in marriage out of the legal arena as much as possible. This can be done by first having required premarital counseling. There was a time in our country when spouses went to their pastors, priests, or rabbis for such counseling. Nowadays, however, religious commitments and different values have changed that drastically, but its value is still important. With trained, licensed professionals, I feel couples can in many cases be made to see the importance of their commitment to each other and also the devastating effect of divorce on children and themselves. This can be done by giving couples statistics not only of the emotional ramifications but of the financial devastation of the divorce process.

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When a couple has come to a point where they feel their marriage can no longer work and one or both of the spouses want to file for a divorce, it should be mandatory that they enter counseling. This counseling should be done only by qualified licensed professionals. In speaking to many in the marriage counseling field, it is in my opinion that at least two out of ten marriages may be saved completely and that at the least the couples will come out of the counseling with a better understanding of themselves, their children, and how to best deal with a post divorce situation.

If it has been decided that the marriage cannot work, I feel the next step should be mandatory mediation. This can either be done with a panel of mediators or a mediator agreed upon by both parties. I feel that this process will eliminate many of the financial burdens which are placed upon couples in the present divorce system, and will create an atmosphere where spouses are not made to feel like criminals.

If all else fails and an agreement cannot be reached even after counseling and mediation, at least at this point I feel that many of the ill feelings will be diffused and the judge will have a more detailed source of information from which to make a just and equitable decision.

Over the past year, you have heard testimony from men, women, father's rights groups, and feminists. I am sure the horror stories have been many. It is for that reason alone that I am here. I am a custodial father who over the years has seen the devastation that the current system has helped create. As I have stated before, the judicial system cannot take full responsibility for these problems. But it must understand that it adds fuel to the fire. We have become a nation of remedies. We tend to wait for problems to happen and then try to correct them. What we should have is the foresight to create an atmosphere where problems are prevented, not dealt with. Children of divorce in many cases go on to have similar problems in their own relationships. We must once again value the institutions of family, marriage, and parenting. I dream of a day when a child will walk up to a judge or anyone involved in the Chancery Division of the Courts and say, "Thank you, thank you very much for keeping my family together."

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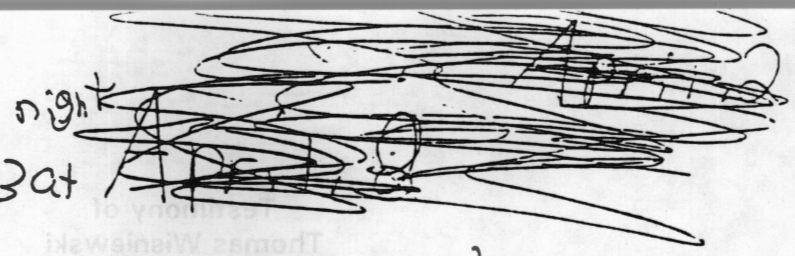
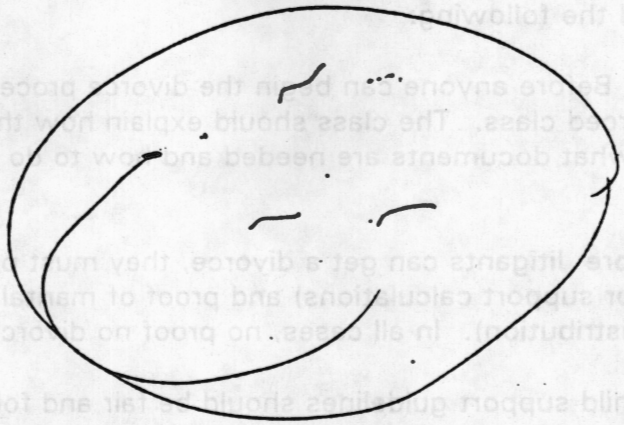


April, 30, 1993 at

Dear Mom
My birthday and Christmas
wish is for you and papy to be
together again love, hug's and Kisses
Dani.

P.S. I want to
talk to you about
it on the Phone.
I am Sorry it's Kinda messy.



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Testimony of
Thomas Wisniewski
528 Stratford Road
Union, New Jersey 07083
November 2, 1994

Introduction

A few weeks ago, I attended a presentation that was given by a State of New Jersey Family court judge and there was something that he said that I totally agree with. He simply said that the document Final Judgement of Divorce should really be called Beginning Judgement of Divorce. The reason for this is divorced litigants usually return to court (some many times) for one reason or another which is usually related to money or visitation. Now why is this?

First, the Final Judgement of Divorce document is not a quality document. With the adversarial system that we have today, the best liars get the best deals. Also there is no consistency, similar situations are treated totally different and published guidelines are not followed.

Second, personal situations change (remarriage, second families, loss of jobs, etc.) and there are no provisions in the current system to handle the changes.

Recommendations

To correct the current system, we must educate the litigants, institute strict rules about what documents litigants must provide before they can get a divorce, and changes the current laws so that support is fair and visitation is encouraged. I recommend the following:

Education Before anyone can begin the divorce process, they must attend a how to get divorced class. The class should explain how the system works, what is expected, what documents are needed and how to do it. In all cases, no class no divorce.

Rules Before litigants can get a divorce, they must provide for example proof of earnings (for support calculations) and proof of marital assets and liabilities (for equitable distribution). In all cases, no proof no divorce.

Support Child support guidelines should be fair and followed. Without exception no orders are to be outside the guidelines. Fair guidelines should be based on income to provide for the basic needs of the children, they should allow support paying parents to exclude 5% of their income for retirement, they should allow

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support paying parents to exclude for the basic needs of their subsequent children and they should allow for adjustments when the custodial parent remarry's, child support should not be income to the new spouse.

Visitation Visitation can be encouraged by, allowing the support paying parent to buy clothing for the children instead of paying child support dollars to an xspouse that they don't trust or get along with. Visitation will also be encouraged by allowing the support paying parent to offset support with visitation time (i.e., weeks during the summer, long weekends, etc.). This will eliminate the reality and perception of double payments and encourage visitation.

Other At all times the support paying parent must have the same rights as parents of an intact family. Extras like college, summer programs, etc. should never be included in a divorce order. These extras should come from the heart and not the law. Remember if you corner the most docile animal it will fight. This would not be in the best interest of the children. Good parents divorced or not will help their children all they can without a court order forcing them to do so.

Conclusion

Thank you for allowing me to present my testimony. Are there any questions or requests?

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NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-3407-92T2

SHARON FLOCH,

Plaintiff-Respondent,

v.

HOWARD F. FLOCH,

Defendant-Appellant.

FILING DATE
APPELLATE DIVISION

OCT 21 1994

Clerk

Argued October 4, 1994 - Decided OCT 21 1994

Before Judges Pressler, Landau and Newman.

On appeal from Superior Court, Chancery Division, Bergen County.

Antranig Aslanian, Jr. argued the cause for appellant.

Ronald M. Abramson argued the cause for respondent (Kleeblatt, Galler & Abramson, attorneys; Mr. Abramson, on the brief).

PER CURIAM

Defendant Howard F. Floch appeals from certain provisions of a dual judgment of divorce entered under N.J.S.A. 2A:34-2.d, following trial on the complaint of plaintiff Sharon Floch and his cross-complaint.

Broadly stated, defendant contends that the trial judge erred in making equitable distribution; that the judge failed to adequately consider plaintiff's potential for earnings when ruling

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upon alimony, child support, and the equitable distribution; and that plaintiff should have borne all the costs of her own counsel and experts as well as a share of the cost of court-appointed experts.

Additionally, defendant asserts that the trial judge erred in failing to conduct a plenary hearing upon his post-judgment requests for modification based upon a substantial change in his circumstances alleged to have arisen by reason of illness. Defendant amended his appeal to include requests for relief from an order of November 4, 1993, relating thereto, and from portions of an order dated February 14, 1994, respecting arrears in alimony and child support, and the denial of his request for release of a lien.

As to the original judgment, we have considered defendant's contentions in light of the record and the judge's opinion of December 3, 1992, and we are satisfied that the judgment and the findings of fact upon which it is based are adequately supported by evidence. R. 2:11-3(e)(1)(A). Although more comprehensive findings upon the amount, as distinct from the allocation, of responsibility for payment of counsel fees might have been preferable, we observe that the fee application and supporting certification of services were not challenged on that basis. See State v. Harper, 128 N.J. Super. 270, 276-77 (App. Div.), certif. denied, 65 N.J. 574 (1974). Noting, however, that the certification of plaintiff's prior counsel included an amount of excessive interest compounded monthly on the original unpaid balance of $4,138, we modify the Spiegel award in paragraph 11.2(b)

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of the judgment to $4,138. In all other respects, the dual divorce judgment of January 29, 1993, is affirmed.

We affirm the November 4, 1993 order which granted limited modification of alimony payments for a two-month period, but otherwise denied defendant's request for change-of-circumstances relief, substantially for the reasons set forth in the written decision of Judge Conte accompanying that order. Judge Escala found on February 14, 1994, that defendant had substantially returned to his surgical practice and that no further modification or revisiting of alimony issues was warranted, and the order of that date so reflects. It is apparent that both judges viewed defendant's medical problems as temporary and acted accordingly. We find no occasion for our intervention. See Lepis v. Lepis, 83 N.J. 139, 151-59 (1980). Our review of the record further satisfies us that refusal to exercise judicial discretion to release a lien (N.J.S.A. 2A:16-3) was not unreasonable.

We remand solely for modification of the dual judgment of divorce dated January 29, 1993 to provide for modification of the counsel fee award in paragraph 11.2(b) in accordance with this opinion. In all other respects the judgments and orders under review are affirmed.

I hereby certify that the foregoing is a true copy of the original on file in my office.

Clerk

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HOWARD F. FLOCH, M.D., P.A., F.A.C.S.
Suite 6
5 Summit Avenue
Hackensack, New Jersey 07601
Telephone: (201) 342-0440

October 24, 1994

Honorable Sylvia Pressler
Appellate Division
25 Main Street
Hackensack, NJ 07601

RE: Case No. A3407-92T2

Dear Judge Pressler:

I am the pro se defendant and appellant in the above case. This case was "argued" before your part on October 4, 1994 by Antranig Aslanian, Jr. who had represented me for the trial in this case before Judge Conte and was therefore present to argue my appeal, despite the fact that I am now representing myself. I find it very interesting that prior to hearing our argument we sat through two other cases, each of which seemed to involve one issue, the lengthy arguments of which you and your two co-judges listened to very patiently. After being informed on the pre-hearing form that our argument would require sixty minutes, I as well as the four other witnesses I had sprinkled throughout the courtroom found that you seemed to cut my attorney off as soon as he could get out two sentences. We noted several sarcastic comments which seemed to indicate that you were not terribly interested in listening to his argument. I might tell you that unfortunately, as Mr. Aslanian will agree to, his brief was written at a time when I was hospitalized for a major cancer operation and I therefore could not at all see or review this brief until a long time following its submission. I was disabled for several months and after returning to my practice found that little of it remained despite my ability to work and was therefore busy full time trying to rebuild my practice and trying to gain some relief from my onerous support obligation of $1800.00 per week for the time of my illness. Therefore, the argument for which we requested sixty minutes was primarily written by me and well footnoted with references to the trial transcript as well as references to the cases which I am sure you will agree have formed the cornerstone of divorce law in this state. A full hearing of our argument was vital to our having the case remanded for re-trial.

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It is quite apparent to me that although there is virtually nothing in the way of findings of fact in your parts' opinion on this appeal that you obviously did not consider the cases which have formed the cornerstone of divorce law in this state in making any evaluation that you might have made. In addition to this, you did not seem at all troubled by the fact that on the question of fees, I was deprived of my right to due process as guaranteed to me by the United States Constitution in that less than 24 hours after we received a copy of the lawyers' certification for me to pay their fees, Judge Conte issued his order that I should do so in their entirety. My lawyer had asked his legal secretary about how much time we had to respond to this application and was told to call her back the next day. Before he could do this, the order was already issued. I also find it very interesting that Mr. Abramson, our adversary, essentially agreed to a Mayer hearing with regard to his fees during your "hearing". This was also heard by the four witnesses I had throughout the courtroom although there was no recorded transcript of our "hearing". Another point which I find very interesting is the fact that most of the cases which I read pertinent to New Jersey divorce law seemed to show that a decision was handed down approximately four to eight weeks following the oral argument. The decision in my case was handed down with a date of October 21, 1994, however, it was received in my office on October 20, 1994 from Trenton with a postmark of October 19, 1994. Since the case was tried up here in Hackensack, it is obvious that it was forwarded to Trenton several days before this October 19 date. This certainly appears to be record time for a case with multiple issues.

Since my case was apparently decided without any reference at all to existing case law as well as without any reference to the right of due process granted to me by the U.S. Constitution and in fact seemed to be decided in uncommonly rapid time, I would appreciate it if you would share with me the rationale behind your decision. The only possibilities which I could think of are either that maxim of juris prudence quoted by the emminent Judge John Conte and I quote "Christ, Andy, he's a doctor" or was it decided purely on the basis of the fact that the law and the constitution does not in any shape, manner, or form apply to the protection of males in divorce litigation.

I have thought this situation over very carefully and have realized that the bulk of my efforts from here on in have to be devoted to getting this case into federal court.

I would very much appreciate the courtesy of a reply. With all due respect,

Very Truly Yours,

Howard F. Floch, M.D.

cc: Ronald Abramson, Esq.
Antranig Aslanian, Jr., Esq. (courtesy copy)
Senator Gerald Cardinale
Hon. Robert J. Wilentz
NJCCR

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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION

SYLVIA B. PRESSLER
JUDGE

COURT PLAZA
25 MAIN STREET
HACKENSACK, N.J. 07601
201-648-3562

October 26, 1994

Antranig Aslanian, Jr., Esq.
1047 Anderson Avenue
Fort Lee, NJ 07024

Re: Floch v. Floch
A-3407-92T2

Dear Mr. Aslanian:

As you are aware your client, Dr. Howard F. Floch, has written to the court directly.

As far as the court is concerned, he is still represented by you and will be until a substitution or pro se appearance is filed with the clerk of this court. It would, therefore, be as improper for the court to communicate directly with him as it was for him to communicate directly with the court.

I am sure you will advise him as to his available recourse.

Very truly yours,

Sylvia B. Pressler, P.J.A.D.

cc: Hon. David Landau
Hon. Richard Newman
Dr. Howard F. Floch
Ronald M. Abramson, Esq.

129X.

HOWARD F. FLOCH, M.D., P.A., F.A.C.S.
Suite 6
5 Summit Avenue
Hackensack, New Jersey 07601
Telephone: (201) 342-0440

October 31, 1994

Honorable Sylvia Pressler
Appellate Division
25 Main Street
Hackensack, NJ 07601

RE; Case No. A3407-92T2 - FLOCH V FLOCH

Dear Judge Pressler:

Had you looked in the file of the above case, you would have realized that a change in attorney making me pro se was filed well before the appellate hearing date of October 4, 1994 was established. This does not surprise me as your decision makes it clear that you never looked into anything regarding this case. As you were informed at the "hearing" Mr. Aslanian was arguing this case for me as he had prepared the brief during my illness and had represented me at the trial. In reality, he was arguing this case as I felt that it was unlikely that you and your co-judges would give any credence at all to the argument of a pro se defendant. Unfortunately, there is no way you could have given any less hearing and any less attention to anybody else arguing this case.

I am very much struck by your use of the word "improper". There are many things about this case which are quite improper. In fact, "improper" is probably a mild word to use for them. First of all we have the fact that this case was decided by literally flying in the face of established case law. I am especially struck by your quotation of Lepis v. Lepis as a basis for me being denied any relief from my support obligations during the time of my severe illness. I read this case several times with special emphasis on the pages which you quoted. I do not see any discussion in this case of an illness of one of the parties or an inability of one of the parties, namely the "supporting party" to make the large salary which was required to furnish the large support award granted. In addition to this, I see no discussion at all of the cost to such a party's business or practice of being away for several months and having rumors flying around his hospital about the alleged advanced state of his cancer. I do, however, see a reference to the fact that an equitable distribution award is somehow meant to be related to a support award and there certainly is an implication that the income derived from the equitable distribution award if not the award itself could be used on "rainy days". Certainly,

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many cases have stated the principle that an equitable distribution award could be expected to make a certain amount of income a year which should be considered as part of the support of the person getting that award. I guess my case was an exception to this. I find it interesting that the equitable distribution award in the Lepis v. Lepis case is $22,000.00 and in the Floch v. Floch case it was $200,000.00 which essentially left me with only my practice and not even my pension as in order to furnish the award out of my pension I would have to cash the entire pension in in order to pay taxes and penalties. Again, we make new trails in the law. Secondly, I find it extremely improper that regarding the question of legal fees, I most certainly was deprived of my constitutional right of due processin that there were less than 24 hours between the time that we received the certification of the lawyers who represented my ex-wife and the time Judge Conte issued his order, despite the fact that my attorney asked his law secretary how much time we would have to reply. We never received any itemized bill from these attorneys . Do you and your co-judges actually think that I deliberately did not reply to this because I wanted to pay these fees? Mr. Abramson even said in his argument that he would consent to a Mayer hearing regarding his fee. I find it very interesting that this was not granted by your court. Thirdly, I find the amazing lack of respect that you showed Mr. Aslanian to be not only improper but appalling and reprehensible. The argument which he was going to make was prepared with careful footnotes to the transcript of the original trial as well as to the law. Nevertheless, he was cut off after every two sentences. Finally, I find something about the entire case appalling and that is the amount of money in legal fees which the state of the judiciary has caused to be run up on this case.

My attorney will be going through the motions of filing for certification at the Supreme Court level, but I recognize that this in all likelihood will be just another episode of fruitless efforts. I am sure that at best the Supreme Court will not certify this case and at worst it will certify it only to glibly say without consideration two years from now they see nothing wrong with it. Therefore, as I previously wrote to you, I will be working hard to get this case heard in federal court which I believe I will be able to do based on my deprivation of due process as well as the New Jersey court system's failure to apply the law in my case. I know I must sound like a disgruntled litigant and Mr. Abramson has said on occassion I will never be satisfied until I get a decision that favors me, but I have discussed this case at length with multiple attorneys all of whom tell me that what has happened in this case is considerably off base. Needless to say, out of fear of the judiciary, they are afraid to come forward.

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As before, I would very much appreciate your prompt reply although I am sure that you will probably find some other reason not to reply to me. Now that you have essentially fulfilled your part of this case, it seems to me that you will probably have nothing else to do with it. I would very much appreciate an opportunity to informally discuss the various cases used by us in our presentation to support our position. I would certainly agree to having my adversary present at such a meeting. It would probably be irrelevant however as just as I previously mentioned your part of this case is essentially over. If a jurist such as yourself could show me where I have misread these cases and where I am in error regarding their lack of application to my case, I will strongly consider keeping my peace, going no further with this case, and attempting to pay the obligations meted out to me.

With all due respect,

Very Truly Yours,

Howard F. Floch, M.D.

HFF/jf

cc: Ronald Abramson, Esq.
Antranig Aslanian, Esq. (courtesy copy)
Senator Gerald Cardinale
Chief Justice Robert Wilentz

1132X

HOWARD F. FLOCH, M.D., P.A., F.A.C.S.
Suite 6
5 Summit Avenue
Hackensack, New Jersey 07601
Telephone: (201) 342-0440

January 2, 1995

N.J. State Legislature
Office of Legislative Service
CN 068
Trenton, NJ 08625

ATT: Mr. H. White, Hearing Unit

Dear Mr. White:

As per your request I am sending you in writing my comments before Assemblyman Kavanaugh's committee on November 2, 1994 which did not come out on transcription.

My appeal of my divorce verdict was finally heard by the Appellate Division after approximately two years. They were not interested in hearing this case to say the least. This was evidenced by Judge Pressler's refusing to allow my attorney to argue it by constantly interrupting him. I find it interesting that the adversary agreed to a so called Mayer hearing regarding my payment of his fees, a major aspect of my appeal. This was, however, not granted by the Appeallate Division which made its decision in record time, citing no law or case law in their decision in which they totally upheld the decision of the trial court which again totally disregarded law, case law, the state as well as the federal constitution. I found out later that a good part of my predicament is in all likelihood due to my ex-attorney who apparently failed to answer papers submitted to him in a timely fashion.

In summary, no legislative reform of the divorce process will be meaningful or effective unless it includes several things.

1. Capping of the fees which may be exacted by lawyers in a divorce case.

2. Mandatory mediation of most cases or most issues to streamline the litigation process.

3. Severe penalties for lawyers who are involved in practices which prevent expeditious resolution of cases including:

a) Encouragement of frivolous domestice violence complaints.

b) Engaging in practices which clearly are meant to prolong resolution of issues in order to churn their own fees.

c) Referral of litigants for consultation to former judges of counsel to their firm.

132 X (A)

In reality these individuals are permitted to do little to resolve cases so any billings beyond general advice regarding settlement positions serves the purpose of only enriching the coffers of the law firm.

d) Strict punishment for engaging in deliberate or negligent practices regarding the clients such as not answering paper filings in a timely fashion.

Note: The present ethics committee set up of the Supreme Court clearly exists to whitewash and protect the conduct of these attorneys. This must stop.

4. The decisions of judges must clearly conform to the constitutions of the United States and the State of New Jersey as well as the laws and case laws which exist. A litigants remedy for lack of this must be more expeditious than an appellate division which takes two years to hear cases and is plainly not interested in matrimonial cases.

5. There must be a mechanism by which judges can be readily disciplined for failure to observe Item No. 4.

I hope this has been of help to you and the committee. If I can be of any further assistance to you please let me know.

Very Truly Yours,

Howard F. Floch, M.D.

HFF/jf

132X (B)

PAGES OF HORROR FROM PAGE'S CORRUPT FAMILY COURT CAMDEN COUNTY STORY #1 MORE TO COME

133X

WANTED: FAMILY WITH SUBSTANTIAL MARITAL ASSETS, HIGH COMBINED INCOME, $100,000 EQUITY IN THE MARITAL HOME, PENSIONS AND IRA'S, TRUST ACCOUNTS FOR THE CHILDREN'S EDUCATION, AND CHILDREN WHO LOVE BOTH THEIR PARENTS. THE FAMILY COURT OF CAMDEN COUNTY WANTS YOU! WE CAN HELP YOU CONVERT YOUR HARD EARNED MARITAL ASSETS INTO UNTRACEABLE AND UNTAXABLE LEGAL FEES FOR SLIMEBAG LAWYERS THAT WE CAN REFER YOU TO. FOR MORE INFORMATION PLEASE CONTACT: JUDGES ROBERT PAGE, VINCENT SEGAL, ALLAN VOGELSON OR MARTIN HERMAN.

(POOR SEGAL CAN'T HAVE DIANA COHEN IN HIS COURT ROOM ANY MORE, SEEMS AS THOUGH SEGAL AND COHEN HAD A THING GOING AND THE ADVISORY COMMITTEE ON JUDICIAL CONDUCT WON'T LET PRINCESS DIANA IN PRINCE VINCE'S COURT ROOM. BUT GOOD OLD VINCE AND PAGE HAVE OTHER TRICKS UP THE SLEEVES TO GET YOUR MARITAL ASSETS.)

Prior to entering Family Court my Family meet the criteria of the above want ad. Family Court Judges Segal, Vogelson and Page and two slimebag lawyers (Martin Margolit and Fast Eddie Epstein) stole my daughters trust accounts, marital assets and alienated my three daughters from me. Segal has been running this scam on fathers for years. Segal is an embarrassment to the legal profession, the judicial system and is not quite human.

I was the victim of domestic violence, but I was removed from the marital home. The children's trust funds became untraceable legal fees. My daughters (8&11 at the time) got to spent time in the home of Fast Eddie Epstein and slept on his couch. My exwife was so appreciative of Fast Eddie's attention and legal expertise, she signed a loan note to Eddie for $10,000 at 18% interest. Then after Dr. Ronald Gruen became involved, my ex was so appreciative of Dr. Gruen's report (Gruen and Galinsky were Segal and Herman's favorite custody evaluators-Galinsky now sells baseball cards in Cherry Hill where all the Judges live) she signed over an 18% mortgage with a constantly increasing principle based on Eddie's legal fees. Judge Vogelson was so appreciative that Gruen did not have to account for his fees and he kept Fast Eddie's mortgage out of the divorce judgement. Fast Eddie now owns the house. **NEAT TRICK THESE JUDGES AND LAWYERS PULL. Nobody could get an 18% mortgage with a constantly increasing principle at a lending institution or bank. But Judges Vogelson, Segal and Page and their lawyer friends can get them in Family Court. What would Forrest Gump say to this?**

Good old boy Ronald Gruen wanted me to change lawyers to either Diana Cohen or Principato. Do you think these lawyers get the mortgages that never show up on the title search or the divorce judgement. Check with the Register of Deeds. When I wouldn't change lawyers, Captain Ron wanted $2000 cash. Do you think any of the cash made it way back to Segal, Vogelson or Page? Well anyway, when I wouldn't play cool, Gruen wrote a report that said I was crasy. Eleven other evaluations were the complete opposite of Dr. Ron's. I guess when you bribe judges and get 18% mortgages anything is possible.

Well, I pissed off the system by exposing their corrupt scam: Judges, lawyers and custody evaluators. On January 5, 1994 I filed an Appeal in the Appellate Division pro se, no lawyer would go against a corrupt judge. At that time, almost 100 violations of a visitation order were committed by my exwife and her live in lover sister. The Court, the prosecutor, and the local police would not get involved or enforce my court orders for my co parenting time (visitation)

On January 28, 1994, I was arrested on bogus charges filed by Judges Segal and Vogelson. I met the conditions of bail four times and then was committed to the Vroom Building for the Criminally Insane by Judge Steinberg, one of Segal's good old boys from Cherry Hill. My 30 day commitment only lasted 5 days, I was ordered released by the Appellate Division.

In June of 1994, Judge Robert Page garnished my wages another $200 per month to pay my exwife's lawyer's legal fees because I filed a motion for enforcement of visitation. (I did know that all Judge could be bought, there ain't an honest one in the bunch). To date 117 violations of my visitation order has taken place.

On July 15, 1994, while I was in the mid west, Judge Page conducted a secret hearing and gave Fast Eddie $40,000 of my pensions. I had been ordered to pay more than I made and still couldn't see my children.

Accordingly, on August 19, 1994 I petitioned the court for the right to die so that I could comply with the orders of the court. I was committed to a psychiatric hospital and released 4 hours later. One of the mental health worker commented that the judges who wrote the orders needed to be committed, not me, I was just trying to comply with the orders of the court.

Since entering Family Court, I have lost my children, my home, $40,000 of my pension, my work computer, college owned software and modem, most of my cloths, my college rings and diploma's and have over $100,000 debt and about $7,000 IRS debt. What a System!

MAYBE THESES SICK BASTARDS KNOWN AS JUDGES AND LAWYERS LIKe TO WATCH PEOPLE SUFFER. THERE IS A TERM FOR THAT TYPE PERSONALITY, SEGAL, HERMAN, PAGE AND VOGELSON ALL SUFFER FROM IT. REMEMBER IT WAS LAWYERS WHO WROTE THE LAWS ON APARTIED IN SOUTH AFRICA AND JUDGES WHO ENFORCED THEM. IT WAS LAWYERS WHO WROTE THE LAWS ON SEGREGATION AND SLAVERY AND JUDGES WHO ENFORCED THE LAWS. IT WAS LAWYERS AND JUDGES WHO CREATED THE LAWS THAT GAVE US THE HOLOCAUST. IT WAS LAWYERS WHO GAVE US WATERGATE AND WHITEWATER AND LAWYERS WHO COVERED THEM UP FOR OTHER LAYWERS.

LAWYERS AND JUDGES CAUSE MORE HUMAN SUFFERING THEN DEATH ITSELF. This Golden Goose has no more golden eggs. Why wouldn't the spineless Judge Page grant me the right to die. He ain't got any guts. He is a wimp in a black dress who wouldn't make a pimple on a real man's ass.

I demand that Judge Page publicly apologize for his remarks about my mental health and personally apologize to Rowan College for his statement "Mr. Kozak you are severely mentally ill, emotionally ill and suffer from delusions of paranoia."

I demand that Judge Page pay for the evaluations he ordered that I have and that Judges Page, Segal and Vogelson all have 11 evaluations like I did and publicly disclose them to the press and media like I did.

I demand that Judges Segal, Page, and Vogelson all submit to drug and alcohol screening tests in addition to comprehensive psychological and psychiatric evaluations and the results publicly disclosed.

If they don't have the guts to have evaluations, they should resign from the court immediately.

Family Court and Divorce Laws were contrived by the American Bar Association and state legislators to convert your marital assets into untraceable and untaxable legal fees.

The white man did it to the Indians and then the Blacks. Now lawyers and judges do it to anyone foolish enough to respect the likes of Unhonorable Judges Segal, Herman, Vogelson, Page and the slimebag lawyers they conspire with.

Stay tuned for more. A hundred cases, a hundred victims and millions of you hard earned being converted into untraceable legal fees for slimebag lawyers to bribe their favorite judge.

Lets be real. Do you really trust lawyers and judges. If not stay the hell out of Family Court and report ever dime you paid to a lawyer to the Internal Revenue Service, your lawyer didn't. Thats why they want cash (bribes for the judges) and won't let you give them a 1099 for tax purposes. They are slime bags.

Judge Page wants me to be a writer and tell the stories of his corrupt Family Court. Judge Page, this is story number one. There will be plenty more to come. We even have audio tapes of good old Dr. Gruen and some of your lawyer friends bragging about their relationships with certain judges.

Have a nice day

9-27-94

Andrew J. Kozak

proud father of: Erikka, Andia and Jillian

136X.

PAGES OF HORROR FROM PAGE'S CORRUPT FAMILY COURT CAMDEN COUNTY CHAPTER 2 JUST FOR YOU

137X

IN THE FIRST ISSUE OF "PAGES OF HORROR FROM PAGE'S CORRUPT FAMILY COURT" I DETAILED A BRIEF FACTUAL CHRONOLOGY OF HOW I LOST MY KIDS, MY HOME, MY SHIRT AND MY PENSION SO THAT MY EX WIFE'S LAWYER COULD GET HIS LEGAL FEES PAID WITH 18% INTEREST. THE CAMDEN COUNTY PROSECUTOR'S OFFICE, ASSIGNMENT JUDGE ROSSETTI AND THE WHOLE DAMN SUPERIOR COURT SYSTEM KNEW THAT FAST EDDIE HIDE HIS 18% MORTGAGE FROM THE APPRAISAL COMPANY AND FROM THE COURTS. HE NEVER DISCLOSED HIS MORTGAGE UNTIL AFTER THE FINDINGS OF FACT WERE ISSUED BY JUDGE VOGELSON IN AUGUST OF 1993. WHAT THAT MEANS IS THAT ALL OF EDDIE'S CLIENT'S CASE INFORMATION STATEMENTS WERE FALSE DOCUMENTS SUBMITTED TO THE COURTS FOR THE PURPOSE OF COMMITTING A CONSPIRACY AND FRAUD UPON MYSELF AND THE COURT.

I had criminal charges filed in Gloucester Township of fraud, conspiracy, usury, and false swearing. When they got to the Prosecutor's office an investigator was assigned and I provided all the documents, transcripts and even told Ed Borden of an audio tape of Segal's favorite lawyers advising female clients how to create a crime of domestic violence that didn't exist. What do you think Ed Borden did? What did Judge Page do for the women beater prosecutor from Gloucester County at a secret hearing in Page's court room? Drop the charges, of course. The good old boy network "spins" the judicial system to protect and enrich their own. Do you think Ed Borden or Mr. Cotton of Gloucester County would advise their daughter, mother or sister to sign over 18% mortgages to their lawyers, no way.

The truth is that the good old boy network (lawyers, judges, prosecutors, police, politicians, and their groupies) is about spinning public policy to benefit the network and to create an employment empire with tax dollars that needs litigant's and victims to perpetuate itself. Do you really think any divorce lawyer or Family Court Judge really cares about children, shit no, its all about converting marital assets into untraceable legal fees for public policy prostitutes that "spin the truth" so that the most amount of marital assets can be transferred to lawyers and kickback to the judges who "guide the process".

HOW CAN YOU TELL WHEN A LAWYER IS LYING? HIS/HER LIPS MOVE

WHY WASN'T JESUS BORN IN JUDGE PAGE'S FAMILY COURT?
COULDN'T FIND THREE WISEMEN AND A VIRGIN.

Did you ever wonder why you don't need a lawyer to get married? Simple, you didn't have any marital assets for them to steal. If you don't have a lot of marital assets, they won't want to "protect your rights." But once you got some home equity, IRAs, trust funds for the children, and other assets that can be turned into cash, these slime bag divorce lawyers start acting like whores in an army barracks on pay day. The fatter the lawyer, the more he has stolen from his clients' children for the sake of "protecting your rights." Did you ever hear a divorce lawyer tell a client to go back to the priest, minister or rabbi who married you to get the marriage straightened out or ended? Only if you don't have the kind of marital assets that "their connections with the judge deserves" in order for you to make their time worth while. If you want to find out who these lawyers are, check the name of the

lawyers who spoke on behalf of Martin Herman and Vincent Segal at the reappointment hearings.

Good old Diana Cohen, Lee Hymerling and Martim Abramson are always ready and willing to help you "get what you deserve" by converting you marital assets into their name. Diane Cohen was getting so good at it she had Segal's undivided attention. Now Princess Diana cannot appear in Segal's courtroom.

Remember Dr. Ronald Galinski from Haddonfield. Good old Ron was one of those "custody evaluators" (the other Ron was Gruen) who liked to get appointment from the court to determine who would be the parent to get residential custody and what the visitation schedule was going to be. Well, seems as though Galinski got caught having sex with female clients being referred by Segal and Herman for custody evaluations. Maybe Galinski thought that if lawyers can have sex with clients and get paid, why can't he. Well, poor Galinsky is now selling baseball cards in Cherry Hill. **Can you name the famous Camden County divorce lawyer (last name begins with the letter P) who was sanctioned by the Advisory Committee on Attorney Ethics for having sex with female clients? Hint, he has alot of ex parte conversation in Segal's chambers.**

Remember Dr. Ronald Gruen, he is one of a kind and Herman, Segal and Vogelson gave this Ron all kinds of appointments and protecting from cross examination. In future chapters of this book, I will detail 25 victims' stories of the Gruen/Galinsky and Herman/Segal/Page/Vogelson scam and how custody was determined by making sure the slime bag lawyer gets paid and how the "secret mortgages" at the Register of Deeds helps lawyers hide their assets and defer their income. Remember, judges were once lawyers (who kissed the rings of the political power bookers) and then got to be judges. Who are they going to protect in a pinch, your children or another lawyer? Come on, wake up, some slime bag lawyer got a restraining order and tooth fairy doesn't get to come to your kids house if you owe your lawyer money. The tooth fairy Has to give your lawyer the money for your kids teeth until you pay his bill in total. Do you think any of these judges believe in Santa Claus? Give me a break. They are all a bunch of scrooges who only care about enriching their lawyer friends at the expense of little children.

Back to Ron Gruen, he doesn't get any more custody evaluations from Herman, Segal, Page or any of the other judges. Why? Things got too hot and we got Gruen on audio tape. Gruen was a loyal slime bag for the judges and lawyers. He destroyed hundreds of Parent Child relationships so that lawyers could steal marital assets. Ron was worse than a prostitute, he sold other peoples lives so he could profit and drive a Mercedes like his good friend in crime "Vince the Prince Segal". Gruen is now a none player in the corruption.

When I was being taken from the Camden County Correctional Facility to the Vroom Building for the Criminally Insane, I had on an orange jump suit, hadn't shaved in a week, hadn't had shampoo or deodorant for a week and it was cold as hell, about 10 degrees and I only had on an orange jump suit. I had to pee. The transportation officers said they couldn't stop, it was policy, but I could pee in the van. Did you ever try to pull down your zipper

when you are shackled, handcuffed and freezing your know what? After I was finished, my pee froze on the floor in about 21 minutes.

I knew right then and there that "life is like a box of chocolate and you never know what your gonna get". I didn't need Forrest Gump to explain about Page's corrupt Family Court and how Segal, Vogelson, Steinberg and company wanted me to have a paid vacation right in the middle of the winter. Up there at the Vroom Building they got arts and crafts, water colors, ping pong, pizza night every Friday (I was too late when I got there) and current newspapers. I spent my five days there looking for a big Indian, a big water cooler and a pack of gum. I knew they wouldn't give me a frontal lobotomy or brain transplant. If I would have stayed till spring I would have taken the healthy patients on a fishing trip. Just as I began to think I was Jack Nickelson and my experience with Segal, Vogelson, Page and Steinberg (I never met Steinberg till after I was released by the Appellate Court) was part of a One Flew Over the Cookoo's Nest, they made me leave and gave me a report that said I was sane. **How do I know if Judges Segal, Vogelson, Steinberg, Page, Epstein and Gruen are sane?**

Do you think Steinberg looked stupid sending me on a free vacation at taxpayers expense, only to have an Appellate Judge cancel my reservations at the Vroom Building and made me go home 5 days into my stay. My mama always said "never trust a man who wears a dress". Where does it say that judges have to wear those black robes or dresses? Do you think that maybe a few of these judges really like dressing up in drag and having all these men lawyers call them "your honor?" I'll never wear a dress!

Do you think that unhonorable judge Page looked stupid sending me to the Crisis Center and I was discharge before he was done on the bench for the day? I have more positive evaluations then OJ Simpson has lawyers. The only thing I haven't been ordered to have done is DNA testing. I don't know if it would do any good, but maybe they could find something in my blood and then they could have evidence that supports Dr. Ronald Gruen's report of me.

Something is really strange. Vogelson was shipped out of Family Court. Dr. Ronald Gruen doesn't get any more appointments as custody evaluator. I have a total of 11 positive evaluations and I haven't seen not one on Page, Segal, Vogelson, Gruen, or Epstein. Galinsky is selling baseball cards instead of custody.

Good thing I don't have anything left. If anybody is dumb enough to sue me for these chapters of my book I promised Page, they better get evaluated. Remember, Page said on the record "Mr. Kozak, you are severely mentally ill, emotionally disturbed and suffer from delusions of paranoia". Page's diagnosis and $.50 couldn't get me disability from Social Security or a cup of WAWA coffee. Why the hell am I dealing with such an insane institution called Family Court with a bunch of grown men sitting around in black dresses, thinking they are psychiatrists, stealing my children, my home, my pensions and then giving my stuff to another grown man who someday wants to wear one of the black dresses and steal stuff from another man.

My mama always said, "if they stink, if they lie, and if they steal, don't go near em."

PAGES OF HORROR FROM JUDGES PAGES CORRUPT FAMILY COURT CHAPTER 3 WHAT THEY DID TO ME

INSPIRATION AND MOTIVATION

While playing football and wrestling my coaches always said that adversity and defeat are obstacles to achievement and are lessons to learn from. I always wantED to write a book. Just yesterday I received notice in the mail that $23,051.54 from my IRA account at Merill Lynch had been liquidated and turned over to my exwife's lawyer. Most of these funds were dividends, interest and capital gains from funds deposited in the early 1970's before I had a pension at work. Another $14,000 was ordered by unhonorable Judge Page to be liquidated from my deferred compensation plan. All of these funds were liquidated by unhonorable Judge Page to assist attorney Edward Epstein in getting his legal fees paid. "Fast Eddie" had secured an 18% mortgage on the marital home that has a constantly increasing principle based upon his legal fees. Good old Ron Gruen, the infamous custody evaluator helped Eddie's investment. In August of 1992 in Dr. Ron's custody report he recommended that my ewife and my daughters should stay in the marital home because of schooling and friends. On February 11, 1993, Fast Eddie met with Dr. Ron after two days of testimony of my divorce trial had taken place. On February 23, 1993 Fast Eddie now gets his mortgage on the marital home and then files the mortgage against the deed at the Office of the Register of Deeds.

Gruen, in his testimony on April 15, 1993 now testifies that it would be okay for the marital home to be sold. **Do you think good old Dr. Ron was more concerned with the minor daughters and their schooling and friends or fast Eddie's mortgage? What made Dr. Ron change his opinion about the martial home and where the minor daughters should live and go to school?**

FAMILY COURT-A COURT OF EQUITY

The way our judicial system works, Family Court is a court of equity. Equity as defined by Webster: fairness, equal adjustment or distribution, giving each his due according to the sense of natural right. Well, the "equity" I received in my divorce reads like a real "horror story." The college I work at provided me with an IBM computer with a 40% discount with a signed agreement that I would use the computer for work, in addition to personal use. The college loaded the computer with Dbase, Lotus, WordPerfect, Procom Communication Software, and also installed a modem so that I could work from home. On the hard drive was numerous work related files and course outlines from the courses I taught at Rutgers University and Rowan College. All this was certified to trial judge Vogelson. The unhonorable judge Vogelson awarded state and college owned software, modem and the computer and files contained on the hard drive to my exwife in my divorce. **How can a court of equity award state own property in a civil action?**

During my "coparenting time" (visitation) my exwife took my 8 and 11 year old daughter to the home of Fast Eddie on July 25, 1992 and also on August 22 and 24, and during the custody evaluation by Dr. Ron. The 25th was my weekend for visitation and the 22nd and

24th was during my court ordered two week extended visitaton to take my daughters to Virigina. Instead of Fast Eddie and his client being found in contempt of court or in violation of the Criminal Statute of Interference With Custody and Visitation, the unhonorable judge Vogelson awarded that I pay Fast Eddie for .7 hours for his fees for violating an order of the court. Fast Eddie listed these visits on his Affidavit Of Services he submitted to the court on March 4, 1993. Fast Eddie even listed his ex parte conversation with Dr. Ronald Gruen on his affidavit that took place after two days of testimony of my divorce trial. Do you think Dr. Ron and Fast Eddie had the meeting to talk about the Super Bowl or to talk about what my witnesses had testified to so as to help Dr. Ron prepare his perjury and not get mixed up? Remember, two months after this meeting Dr. Ron, Ron now testifies how it would be okay if the marital home had to be sold.

I took all these obvious problems the Camden County Prosecutor's Office. I had the transcripts, all the reports, and even had my ex on 6 hours of audio tape. On these tapes she claims that her sister is the father of my daughters, accused me of having sex with my mother, my sister and numerous others. On the tapes, she even states that she can watch fleas do foreplay and have sex. Dr. Ron had these tapes, pictures of how my ex had bit me, stabbed me, scratched me and slashed the tires on my car. Dr. Ron in his report, stated that my ex and her sister (who thinks she is the father) both assaulted my oldest daughter. Dr. Ron in his custody evaluation gives these two child abusers credit for being honest. What a scam. If a man ever admitted to hitting a women, he wouldn't be given credit for being honest.

My ex works in law enforcement and has a badge. What do you think the prosecutor's office is going to do about it? They don't give two shits about my daughters, only in protecting one of their own. They get to protect Fast Eddie Epstein (lawyer) and my ex who has a badge. The brotherhood of lawyers, law enforcement and judges is more powerful than the Mafia and they have a code of silence beyond belief. These guys will never end up in a witness protection program, they will never snitch on each other.

On the next page is a riddle and a character reference from my exwife. The note is on Camden County Stationary and is in my exwife's handwriting. The riddle is " what type of condition can be revealed by video that a person would take mediciation for and has side effects." Dr. Ron and judge Vogelson had this note and couldn't solved the riddle. Oh yea. Ron's only interested in protecting Fast Eddie 18% mortgage and the judges are only interested in getting Eddie's fees paid.

Also on the next page is my exwife's character reference of me. "pays the bills of the house, nurturing to the girls, good father, giving takes the girls to soccer, good sexual partner, takes the girls to Va." I wish Dr. Ron and the unhonorable Judge Vogelson could have given me the same compliments.

End of Chapter 3

Camden County

MEMO FROM.....

1. Do they have Videos of you?

No videos showing Condition.

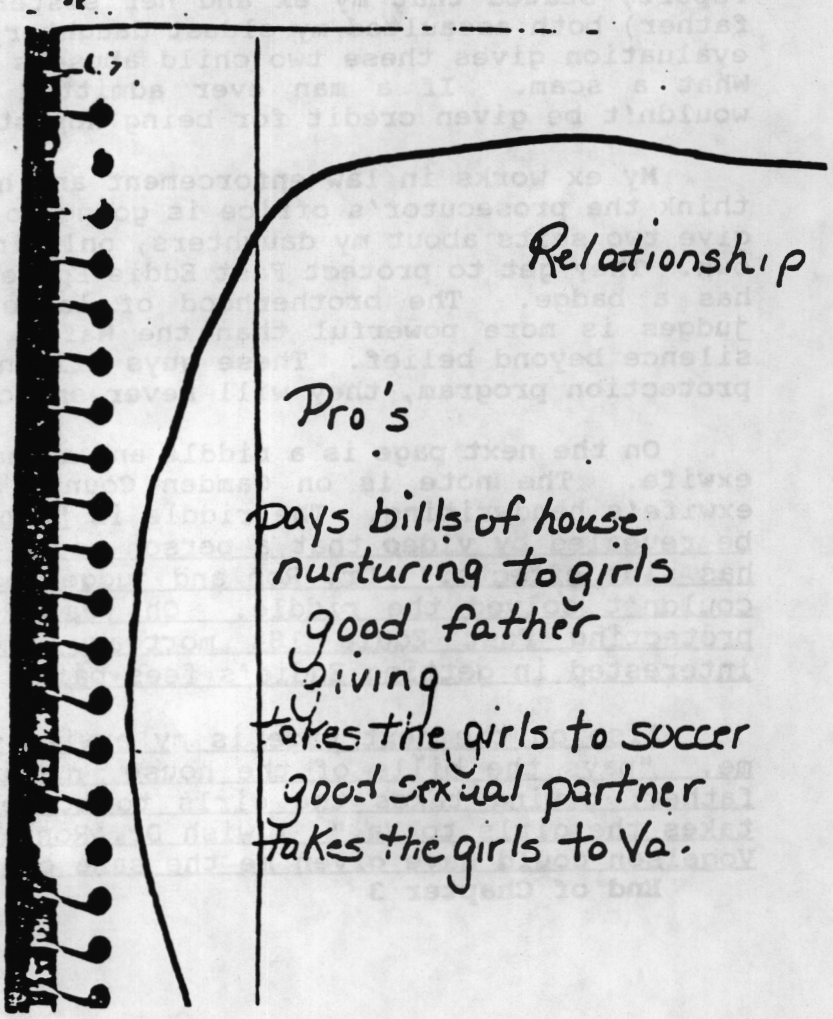
2. go to court

take medication

doctors note.

Can cause effects

Dian Kozak's handwriting



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PAGES OF HORROR FROM JUDGE PAGES' CORRUPT FAMILY COURT CHAPTER 4 WE ARE NOW AT WAR!

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GREED, POLITICS, JUDGES AND CHILD ABUSE

Recently here in the state of New Jersey, after the murder and sexual assault of young children, the state legislator is in the process of enacting new laws for sex offenders. These laws would track the sex offender for life and require that his address be known to his/her neighbors. Great idea to protect the public. But the law has one obvious problem, it doesn't prevent the sex offender from getting custody of little children.

A few years ago, Judge Vincent Segal knowingly awarded custody of a young boy to a former psychologist and known pedophile and sex offender. The new "Megan Law" cannot prevent a Family Court judge from awarding custody to those offenders the "Megan Law" is supposed to protect our children from. A few years after Segal awarded custody to the known pedophile, the man (psychologist turned silversmith) was convicted of sexual assaulting the little boy after prying him with drugs and booze. These same politicians granted Vince tenure, even whey they knew what Vince had done.

There is something the politicians are good at. Using taxpayers money to make money for themselves. The best scam is with pensions. A lawyer legislator has a pension through the state when elected to office. However, the lawyer legislators also have numerous appointments as solicitor, municipal prosecutor, and other legal appointments. Some of them are clever enough to get themselves on payroll, rather than as an independent contractor who gets a 1099. When they get on payroll, they also get to make pension contributions and have the town through in the mandatory contribution. Double dipping? It gets better. They then can borrow from PERS (Public Employees Retirement System) up to 50% of the value of their pension at 4% interest and invest the pension money at a much higher rate. Note a bad scam. All done by lawyers.

When I was in county government, they (politicians) had ingenious ways of getting money for campaigns.

One morning I went to work early and saw an oil truck delivering oil between the old court house and the old Lits building. What was strange was that the hose was running back into the tank with a ticket in the meter. I brought this problem to the attention to the head county lawyer (who later went to jail) when I discovered that 6000 more gallons were delivered than the size of the tank in the ground. He said he would handle it.

Three weeks later I was at a political fundraiser that I had to buy a $500 for ticket even though I was also asked to take pictures at the event. Can you guess who sponsored 3 tables with 10 seats at each table? That oil truck must have been pulling the scam for years at each location. Can you guess which judges now sitting on the bench in Camden and Gloucester County were at that event? I have the pictures and negatives.

Another scam was with floor wax. It seemed as though one

MGX

influential salesman had the only was the worked well on the county floors. One day, when new on the job, I asked one of the floor waxers why the wax worked so well. After the wax was delivered, the salesman would come to the storage room and open each 55 gallon drum of wax to prove that there was wax in the drum. However, before putting the cap back on, the salesman would drop 20 silver dollars into each drum of wax and tell the janitors that the last man to use the was would get the silver dollars. Within five days of delivery, the wax was down the drain and the floors not waxed. Can you guess who purchased a table at the same political fundraiser? The salesman's wife now works in the prosecutor's office.

The same scams were pulled with laundry contracts, meat contracts, snow plowing contracts, and numerous others. How was I as the purchasing agent to do the best for the taxpayers when the objective was to let vendors overbill and then make big campaign contributions.(ie Mike Keating) Employees were evaluated on how many tickets they sold, not how they did their job. I eventually had to leave and secured a position at the Glassboro State College. Nobody from the county government or the prosecutor's office really wanted to go after the corruption because of where it lead. Family Court and the lawyers are the same way, only children are hurt by the corruption.

You have to remember, how did most of the sitting judges in Family Court get their appointments, from a corrupt political machine. (Judges Nardi, Synder, and DiCamillo are not considered corrupt by this author) Judges Segal and Page are prime examples of what a corrupt system is capable of producing for the Judiciary. Judge Herman came from the same machine. However, I must admit, fair is fair, that Judge Herman has had a complete change of demeanor and attitude since he didn't obtain tenure. I have personally watched Judge Herman 6 times since his reappointment hearings and he is a changed man. Of all the judges I have observed, Herman is the most brilliant and knowledgeable. If Herman can stay the course, keep his political cronies out of his courtroom and practice "equity", I would speak words of support at his reappointment hearing in 2001 if Page doesn't grant me the right to die or have me killed first.

Speaking of Page, he chickened out again. I had filed a motion returnable November 4, 1994. I had requested the relief of: psychiatric and drug evaluations of Page, my ex and her attorney (I have 12 now, only Gruen's is bad). I also attached a copy of my oldest daughter's poem from her high school note book and requested Family Counseling at the Steininger Center were Page sent me. The independent evaluation Page ordered (and the Steininger Center) both recommended counseling for the family, especially my daughters and I. (see back page for daughter at risk poem that was reviewed at the Steininger Center and Dr. Joel Glass) **PAGE CANCELED THE NOVEMBER 4, 1994, MOTION HEARING AND WROTE AN OPINION THAT DOESN'T EVEN MENTION THE CHILDREN OR THE EVALUATIONS HE ORDERED. FAST EDDIE EPSTEIN EVEN CERTIFIED THAT PAGE WAS IN CONTEMPT OF HIS OWN**

ORDER BY NOT PROVIDING EDDIE AND I WITH COPIES OF THE STEININGER REPORT AND THE INDEPENDENT PSYCHIATRIC EVALUATION PAGE ORDERED. I SUBMITTED MY EVALUATIONS TO THE NEWS MEDIA AND THE BILLS FOR THE EVALUATIONS TO PAGE. PAGE ALSO CANCELED MY SEPTEMBER 9, 1994 MOTION HEARING AND WROTE A WRITTEN OPINION THAT DID NOT REFLECT THE RECORD.

We got ourselves a judge who: doesn't know how to obtain his fax number, cannot research the record, is disorientated to time, place, and person, thinks he can make psychiatric diagnosis without a license, erases part of the tape proceedings from one of my hearings, has ex parte conversations with fast Eddie at a secret hearing on July 15, 1994 while I was studying with Indian Shaman, and completely ignores the evaluations he ordered. If he was in one of the courses I teach at Rutgers, I would ask him to drop out, he is clueless about reality.

Remember, on August 19, 1994 at my right to die hearing Page said, "Mr. Kozak, you are mentally ill, emotionally disturbed and suffer from delusions of paranoia." Well as Forrest Gump said, 'stupid is, stupid does." If Page can make a diagnosis of me when I was making a good faith effort comply with the orders of the court, I will make one of Page based upon post graduate studies at Temple University in Psychology.

Subject: Robert Page, alias Judge Robert Page
OBSERVATIONS

Subject has dilated pupils and often roles his eyes to the back of his eye sockets. Subject cannot look anyone in the eye for a prolong period of time. Will role his eyes or shut them speaking and obviously not in touch with reality. Is often confused as to time, place and person. Has to be corrected by litigants as to the matter before him.

Subject often conducts proceedings in secret and with most of the court room empty. Subject has a case load that has very few lawyers present in the court room. Subject handles an inordinate amount of cases related to juveniles. Subject is best of judicial friends with Judge Segal who gave custody of a young boy to a known pedophile. Subject often bounces case between himself and Judge Segal.

Subject often conducts hearing with fathers' rights activists' when the court is void of other litigants. Subject would like to conduct all of his proceedings in secret. Subject is obviously fearful of public attention and scrutiny. Subject does not appear to be in the best of physical health and is in need of exercise.

Subject is petrified of litigant Andrew Kozak to the point he will only conduct hearings when Mr. Kozak is unavailable or if Mr. Kozak requests the right to die. Subject will not allow Mr. Kozak in his court room because of the public embarrassment he

experienced the last time Mr. Kozak was in his court room.

Subject is aware that bailbondsman Goldsmith left a detailed diary of past dealing with Page the lawyer and their mutual clients

DIAGNOSIS WITHOUT CLINICAL INTERVIEW, DIAGNOSIS BASED ON AVAILABLE DATA ONLY.

Subject is despondent over the loss of Dr. Ronald Galinski and Dr. Ronald Gruen from custody evaluations in his jurisdiction. Subject is despondent over losing control of his former custody for sale scam.

Subject is experiencing paranoia and fright regarding public exposure, ridicule, or embarrassment.

Subject is losing control of involuntary reflexes regarding eye movement and eye contact.

Subject is overweight and in need of physical exercise.

Facial color indicates flushness, possible high blood pressure or prolonged use of prescription drugs of the anti-anxiety or anti-depressant families. Possible bi-polar disorder.

Paranoia could also be a manifestation of prolong prescription drug abuse without accompanying psychotherapy for underling mental disfunctioning or character disorder.

Subject's desire for isolation and limited social or work related contact with same age and status persons is cause for concern and is a red flag of psychopathology.

RECOMMENDATION

Comprehensive psychiatric and psychological evaluation and accompanying medical evaluation for possible physical ideation of abuse of prescription drugs. Subject in need of complete physical examination and mental functioning/reality testing abilities.

Because the unhonorable Judge Page has saw fit to make a diagnosis of me not based on any training he has received and stated that I was "severally mentally ill, emotionally disturbed and suffering from delusions of paranoia", I challenge Page to an open public discussion in his court room as to the corruption and custody for sale scam he has been running with his lawyer friends.

Judge Page, I can look you eyeball to eyeball. You once gave me a certificate of appreciation for the work at did at the Youth Center with Mary Previte. Something serious has happened to you. You are either an evil person by character or by abuse of drugs. My urine is clean, how about yours?

end of chapter 4

The date

Frikka's Handwriting - from her notebook from Part VII

Suck me
Fuck me
Chuck me
I don't care.
Just be there.
You like me
The way you fucked me in a tree
Oh oh Oh
I ♡ U
Sex is fun
As long as you have nice buns
Fuck me I don't have cooties
But I have a nice booty
I'm not trying to be a ho
For a good blow.
Unlock the door
And I'll hump you on the floor
Even though my coat is red,
I want you in my bed.
I don't give a dilly
If you don't have a nice willy.
Fuck me long
And I'll give you a song
Oh boy I love you so
Never ever gonna let you go
Give me the cheese topping

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PAGES OF HORROR FROM JUDGE PAGE'S CORRUPT FAMILY COURT "THE PEDOPHILE CONNECTION"

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HOW DID A PEDOPHILE BECOME A FOSTER PARENT

In Chapter 4 I mentioned the Megan Law and how Edward Morra, former psychologist, court expert and pedophile from New York, was able to have Judge Vincent Segal award him custody of a young boy over the objections of the boys parents. There are several unanswered question surrounding this mess. How could this have happened?

During the last several weeks myself and several other Children's Rights activists, with the help of a computer, built several simulations of how this could have happened. The possibility of a Pedophile Network run either out of Family Court or with the approval of Family Court is a real possibility. Using what if statements and various data bases, the following questions and possible explanations seem plausible.

1. With 20 other counties and 49 other states, why did Edward Morra pick Camden County as a place to live and Camden County Family Court as a way of obtaining a young boy to carry out his sexual perversions?

2. Why did Edward Morra pick Cherry Hill as a place to live?

3. If there is a secret network of Pedophiles (as authorities have documented in other cases), who was Edward Morra's contact in Camden County Family Court and Cherry Hill?

4. What kind of information would a pedophile need in order to obtain information needed to secure a young boy? Who would be in a position to obtain information about young men who would be prime candidates for exploitation?

5. In order for a convicted pedophile to leave one state and pick up where he left off, he would need connections either in the Family Court or through DYFS in another state. Who were Morra's connections in Camden County?

6. Why didn't Judge Robert Page express outrage and request an outside investigation as to how a convicted pedophile was able to obtain custody of a young boy in his Family Court? Why wasn't this case heard before Judge Page? Why has Judge Page been silent on this horror committed upon a young boy and his family? Why hasn't Judge Page issued a public apology and insured the public that it can't happen again?

7. If a connection was needed in DYFS to insure that Edward Morra was no longer a danger to children, who in DYFS gave Morra a clean bill of health? Who investigated Morra at DYFS?

8. If Morra wanted to network with other pedophiles in Camden County, who would his network of other pedophiles consist of? Another psychologist?

9. What psychologist has had extensive dealings in Camden County Family Court for several years? What psychologist from Cherry Hill had his name come up at Senate Judiciary Hearings? What Cherry Hill psychologist has not had any new appointments in almost 16 months? Who was Judge Segal's favorite custody evaluator? What psychologist lives and has his practice in Cherry Hill?

10. What psychologist has had extensive court appointments and also has a contract with DYFS? What psychologist would be in a position, have information, have connections, and be able to rise above suspicion and have friends in "high places" to protect him?

11. Did the Prosecutor's Sex Crime Unit question Edward Morra about how he chose Camden County and Cherry Hill as a place to relocate to? Who were Mr. Morra's friends in Cherry Hill and how did he get to be approved as a foster parent?

After running several models on a computer with artificial intelligence, the following data came out>

. Mr. Morra did not randomly select Camden County and Cherry Hill to relocate.

. Mr. Morra was probably familiar with the courts and how they they operate.

. Mr. Morra had to have "inside help" to hide his past from DYFS and the Court System.

. Mr. Morra had to have connections to some one who could introduce him to a situation and circumstances in which he could obtain a young boy for his sexual perversion.

. The only person(s) who could have assisted Mr. Morra had to be in the DYFS System and that person had to have connections to the Court System.

. If their is a network of pedophiles who are psychologist's, (just as there are networks of pedophile priests, etc.), what psychologist from Cherry Hill could have assisted Mr. Morra with hiding his past from DYFS and Family Court?

A copy of this Chapter of "PAGES OF HORROR FROM JUDGE PAGE'S CORRUPT FAMILY COURT" is being hand delivered to the Sex Crimes Unit of the Camden County Prosecutor's Office, Assignment Judge Rossetti, All Family Court Judges and Judges of the Criminal Division, and Prosecutors Borden, Mullholland, Audino, Mulbriar, and several others.

Also copies to the Attorney General's Office.

FAST EDDIE EPSTEIN AND UNHONORABLE JUDGE PAGE ARE AT IT AGAIN.

Judge Page has not allowed me in his court room on two recent motions I filed (September 9, 1994 and November 4, 1994. On November 2, 1994 at 10:00 AM, I will argue my Appeal of Judge Vogelson's Divorce Judgement at the Richard Hughes Justice Complex, 5th floor.

Guess what good old fast Eddie and Page are up to. On October 26, 1994, Epstein had an Order to Show stamped in in Judge Page's chambers without going through the motion clerk. This ORDER TO SHOW CAUSE is scheduled for 9:00 AM on November 3, 1994, the day after my oral arguments at the Appellate level and the day before I was supposed to have a motion hearing in from of Page that he ruled on the papers and got everything mixed up. Page and Epstein must think the world is as dumb a they are. Now fast Eddie wants my state pension worth about $90,000 to go along with his 18% mortgage on the marital home worth about $50,000+, and the $40,000 of my IRA's and Deferred Compensation Judge Page gave him because I was ordered to pay more than I made by Judge Vogelson. Do you think I should be paranoia?

Guess what fast Eddie and unhonorable Page? I will show up on Epstein's order to show cause. I can't understand why Eddie didn't file a Motion as per the rules of the court. But you know Page, he will sign anything Epstein puts in front of him.

You know what, I think Page is the court connection to the pedophile ring and that Dr. Ronald Gruen is the psychologist. Do you think Page acts like a normal Family Court Judge concerned with the welfare of young children? I don't, I have a funny suspicion that Page, Gruen and Epstein might have some funny tendencies? Remember, my ex thinks her sister is the father of my daughters and Vogelson listened to the tape where she makes that and other bizzar statements.

Well, I never miss a chance to been in front of a Judge who thinks he is a psychiatrist. Accordingly, I am inviting the media, the newspapers, the TV stations, and anyone who wants to watch another chapter unfold of **"PAGES OF HORROR FROM JUDGE PAGE'S CORRUPT FAMILY COURT."**

You know why Page and Segal are soooooooo pissed at me and the other Father Rights' people? We figured out their custody for sale scam, knocked Gruen out of custody evaluations, got Gruen on tape, kept Martin Herman from getting tenure, (Herman is now the best Family Court Judge in three Counties), put Galinsky out to pasture, and stopped the gravy train on marital assets from being converted into legal fees for Segal's slime bag lawyer friends. **DO YOU THINK PAGE WILL HAVE ME KILLED?**

YOUR ARE INVITED, 11-3-94, JUDGE PAGE'S COURT ROOM AT 9:00 AM THE PEDOPHILE CONNECTION WILL BE DISCUSSED. POOR PAGE!

155X

EDWARD P. EPSTEIN
Attorney at Law
1125 Atlantic Avenue
Suite 543
Atlantic City, New Jersey 08401
(609) 344-3155
Attorney for Defendant

FILED
DATE 10/26/94
Robert W. Page JSC

ANDREW KOZAK, Pro Se, Plaintiff	SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION/FAMILY PART CAMDEN COUNTY
vs.	DOCKET NO.: FM-04-05459-92
DIANA KOZAK, Defendant	CIVIL ACTION
	CERTIFICATION OF COUNSEL IN SUPPORT OF ORDER TO TO SHOW CAUSE

Edward P. Epstein, of full age, hereby certifies as follows:

1. I am attorney for Diana Kozak and have personal knowledge of the facts herein contained.

2. The Court is referred to paragraph 2 of its October 7th, 1994 Order. Mr. Kozak has failed to deliver to me the name and address of his life insurance carriers and has further failed to return to me the releases/authorizations commanded by said Order. Said Order commanded the delivery of that information and return of the releases/authorizations within ten (10) days of September 28th, 1994.

3. The Court is referred, respectfully, to its October 19th, 1994 letter/Order determining entirely the motions that were scheduled for November 4th, 1994. Therein a $250.00 counsel fee is awarded Mrs. Kozak. The Court is requested to allow that $250.00 to be paid out of the funds liquidated from the Merrill-Lynch and

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B. DASS
10 BETH ANN WAY
TRENTON, NEW JERSEY 08638
(609) 771-0955

November 2, 1994

Honorable Assemblyman Walter J. Kavanaugh, Chairman and
Members of the AJR 26 Commission to Study the Law of Divorce
State Capitol Building
Trenton, New Jersey 08625

Ladies & Gentlemen:

On behalf of over one thousand citizens of the State, I respectfully submit this Petition supporting the right of children to have "Equal Access" to both parents.

According to the US Census Bureau, 90% of the fathers with joint custody pay their child support, 80% of the fathers with visitation pay their child support and only 45% of the fathers with no contact with their children pay child support.

The facts are clear. The more contact the non-custodial parents have with their children, the greater is their commitment to support their children. The reverse is also equally true. Moreover, it is the policy of the State to encourage divorced and separated parents to maintain a continuous involvement in the nurture, care and upbringing of their children.

Therefore, we are urging this Commission to sponsor appropriate legislation that would:

- Mandate presumption of joint custody and mediation as the preferred method for resolving parental conflicts and providing children equal access to both parents.

- Provide maximum Parenting Time for the children to be with their non-custodial parent.

Thank you for your kind consideration.

Sincerely,

Bob Dass

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PETITION

TO: THE COMMISSION TO STUDY THE LAWS OF DIVORCE, and
THE LEGISLATURE

We, the undersigned, support the cause of children's birth right for "EQUAL ACCESS" to both parents.

The present laws of divorce essentially provide for the economic needs of the affected children and do not adequately address their emotional and developmental needs.

Studies show that children need both parents and that they suffer a great deal of psychological distress and long term problems when a parent is no longer a part of their lives. Frequent, regular and reliable contact with both parents is very critical for their proper growth and development.

Traditional sole custody is creating a generation of children who are being damaged psychologically. We, therefore, urge you to make necessary reforms including the following to protect their "Best Interest":

- Provide presumption of joint custody and mediation as a method of resolving parental conflicts and providing equal access to both parents for children.
- Provide maximum practicable Parenting Time (visitation) for the children to be with their non-custodial parent, especially out-of-state distant parent, simultaneously with the Custody/Support Order so that it is not left upto the discretion of the custodial parent and/or other jurisdiction.

Name	Address	Signatures

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RICHARD GOLISH

INFORMATION TO BE RECORDED

ACCOUNTABILITY

16.1-257.1 Powers, duties and functions of clerk of court.

The clerk of court shall furnish to the Board of Health, Division of Vital Statistics within thirty days from the entry of a final orders information as follows:

Case No.

Date of filing petition

Date of entry of the Order

Name of Judge

Name of Attorneys:
Petitioner
Respondent

Petitioner's:
Relationship to infant child
Sex
Age
Race
Religion

Respondent's:
Relationship to infant child
Sex
Age
Race
Religion

Infant child(ren):
Age
Sex
Race
Religion

RICHARD GOLISH

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Court Order:
- Original or modification
- Consent agreement or contested
- To whom custody awarded
- Visitation arrangements
- Child support award:
  - Sole/split/shared guidelines
  - Gross income of each parent
  - Extraordinary medical/dental payment ordered
  - Child care amount & paid by whom
  - Health care amount & paid by whom

  - Presumptive amount
  - Deviation factors used and amount applicable for each
    - To include but not limited to the following:
      - Support for other family members
      - Transportation for visitation
      - Tax benefit
      - Age adjustment
      - Custody arrangements (visitation)
  - Net child support award to mother
  - Net child support award to father

Award of attorneys fees:
- Amount
- Paid by

Visitation schedule:
[list separately if different for each child]
- Weekly
- Monthly
- Holidays
- Vacation
  - Total per year

Was case appealed;
In part/ all By a Mom

APPEAL GRANTED?

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FACE
Fathers' and Children's Equality, Inc. / New Jersey

P. O. Box 2471
Cinnaminson, NJ 08077
609.786.3223

TESTIMONY OF JEFFREY GOLDEN
NEW JERSEY COMMISSION TO STUDY THE LAWS OF DIVORCE
NOVEMBER 2, 1994

Thank you for allowing me this opportunity to testify today.

I attended every public hearing of this Commission and listened to all of the witnesses' testimony. For many, this was a forum to air their own personal divorce and Family Court horror stories. It is interesting to note that no one came forward to say that the system is fine the way it is and nothing should be done to change it. No one seems to be satisfied with the present system.

I come here today representing Fathers' and Children's Equality of New Jersey's over 1,000 members and other contacts with recommendations of changes we need to make.

We hear every day in the media about the breakdown of the family. At the first hearing last year I testified about the importance of two parents in children's lives and gave you statistical information about the detrimental effect of single parent families on children, including increased likelihood of mental illness, criminal activity and teenage pregnancy. In the vast majority of single parent families the missing parent is the father, so we can also blame fatherlessness for these problems.

My opinion has not changed. Every child deserves to have two parents, a mother and a father, and to know all four grandparents and all of his or her aunts, uncles and cousins on both sides of his family. Every child needs to know he or she is loved by as many people as possible, and that all of these people want this child to grow up to be the happiest, healthiest, best person he or she can be.

In Camden, New Jersey, where more than half of the population is under age 18 and where there is an unusually large proportion of fatherless single parent families, civic leaders recognize the importance of fathers. The Board of Education and the anti-drug network together sponsor a program called "Fathers, Go Get Your Sons." Fathers are encouraged bring their sons to a park where there is an all day program of father and son activities and fellowship.

Mary Taylor Previte, the director of the Camden County Youth Shelter, the juvenile detention facility, wrote a book entitled "Hungry Ghosts." She tells of delinquent children and pregnant teenage girls in the shelter. She says that, when the center residents get visitors, they are mothers, sisters, aunts and girlfriends. It is very rare for a father to visit. The kids who wind up in the shelter are almost all

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fatherless.

Just last week, DeForest B. Soaries, Jr., pastor of First Baptist Church of Lincoln Gardens, spoke to a seminar of parents at a middle school in Camden. I have attached a copy of the newspaper report to my written testimony. He said "You show me a high school, any elementary school in America, where boys are bringing handguns and knives to school and calling women nasty names ... and you five me 500 fathers and I'll clean that school up in two hours."

The point of all this is that every day New Jersey Family Courts are issuing court orders that make it illegal for fathers to be involved with their children. For many, if the father got his children and took them to a park for the day, or went to the child's school, or even visited his child at the youth center, the father would be in contempt and would be arrested. Rather than building stronger parent-child relationships, our Family Courts are putting our children at higher risk of delinquency and emotional distress. Girls who missed out on their own father's love are the ones who make poor decisions and become pregnant, and it's fatherless boys who terrorize their schools and their neighborhoods.

The divorce rate is skyrocketing. It should be Family Court's job to preserve marriages and parent-child relationships, but that's not what happens. Courts are an adversarial process. Even if they don't want to, the litigants have to become enemies. Once a couple gets involved with Family Court, the only possible result is a divorce. Each hires a lawyer who must justify his fee by advising his client on strategies to use to get the best deal in court, without regard to what will become of the children. Many of the other witnesses told of losing their homes to pay the lawyers' bills.

Some in the Family Court establishment point proudly at their county's mediation program. In Burlington County, for example, when a couple is referred to mediation, they enter through a set of double doors with a sign on it saying "Dissolution Unit." Inside, there are dozens of people working at desks. How could anyone believe that their purpose for coming here might be to reconcile? These people aren't being paid to preserve families. They are there to dissolve marriages.

Mediation can not be successful unless both parties have something to lose. If Mom already has possession of the house, the car, the bank account, and even the kids, and is getting most of Dad's paycheck, what is her incentive to negotiate in good faith? She already has everything she can possibly get, so she goes through the motions of being there, but does not really participate. If that happens today, the mediator may only report back to the court that mediation was not successful. The mediator can not say that mediation failed because Mrs. X refused to negotiate.

Many people enter the Family Court system as a result of the domestic violence laws. Temporary situations, like unemployment or financial problems, might put stress on a marital relationship which might result in action that falls under the definition of our domestic violence laws. In the 1930's when the divorce rate was very low, if Dad lost his job the family tightened it's belt and drew closer together. In Steinbeck's "Grapes of Wrath", when the Joads lost the farm, they

didn't get divorced. They became a tighter family unit. Today, domestic violence restraining orders prevent people from even talking to each other to resolve their differences.

Courts are not the right place and judges are not the right people to make decision on the custody of children. Even the judges recognize this, and that is the reason for custody evaluations. The court has a list of psychologists and sends the family to one. I heard one psychologist in South Jersey testify that he does 50 custody evaluation a year. We know that, including witness fees, he gets $10,000 for an evaluation. That means that he makes a half million dollars a year just on court appointed custody evaluations. To make sure this income continues, he has to make custody recommendations that makes the court's job easier, regardless of what will happen to the family later. He also has to maintain a good relationship with the lawyers who steer business to him.

In one case, I had an opportunity to later ask the custody evaluator why he decided custody by writing a report that was so one-sided. He said 'I don't make the custody decision: the Judge does." I later asked the Judge in that case why he awarded custody as he did. He said "I didn't make the decision. That was Dr. X's recommendation." No one is willing to take responsibility for their actions.

What should be done to fix our Family Court system? First and foremost, both parents have an equal responsibility to provide emotional as well as financial support for their children. There should be a presumption of joint legal and equal shared physical custody. It should be the court's job to make sure that the children will continue to have two parents, not to remove one from them.

The only time financial child support should be awarded is to compensate a parent for his or her added financial burden when the other parent refuses or is otherwise unable to fulfill the obligation for the physically care of the children.

Either parent failing to cooperate with the other maintaining a relationship with the children should be grounds for awarding physical custody to the other parent.

A marriage license should be just what the name implies - a license issued for a specific length of time. When it expires, it must be renewed by both parties, or they are divorced.

Courts should only decide financial issues. The court's caseload should be reduced by allowing access to it only to families whose assets, exclusive of homes, exceeds $100,000. Courts are good at resolving financial issues, but most of the people who get divorced in New Jersey don't have enough money to go to court.

Alimony, if awarded at all, should be only for a limited time to allow for occupational retraining, and only to the defendant. Since the breakup of a family is counterproductive to our society, the plaintiff, who initiates a divorce action, should no be financially rewarded.

People's homes should be preserved. Lawyers should be barred from using mortgages to secure their fees. No one should have to become

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homeless to be divorced.

If custody evaluations are needed, they should be done by sociologists who are salaried court employees and owe no allegiance to anyone. It is unfair to force people who have never had any psychological problems nor felt the need to consult with a psychologist to undergo a psychological evaluation, especially at a time of stress in their personal lives that will skew the results of psychological testing. Psychologists are experts on individuals, while sociologists are trained in and understand interpersonal relationships as are found in a family.

If the parties are referred to a mediator, and one of the parties does not participate in good faith, the mediator should be able to report to the court which party prevented mediation from being successful.

There are only two other issues I would like to briefly address:

During these hearings, we have through our political action committee continued to lobby our legislators for changes we would like to see in the laws effecting family relationships in New Jersey. Their response has often been to refer us to this Commission and say that they didn't want to introduce any new legislation until after this Commission's work has been completed. I can understand and respect those legislator's position.

But, right in the middle of this Commission's term, someone introduced legislation to revoke the driver's and professional licenses of parents who are in arrears in child support. This makes almost as little sense as jailing parents for child support arrears. If a parent doesn't have the money to pay support now, how will he be able to get it when he is prohibited from working in his trade or profession, and even from commuting to work?

If the state wants to promote the payment of financial child support, they should make it easier for parents to pay, not harder: Require employers, including government, to give hiring priority to parents who have child support obligations. Provide low-cost housing and food stamps to parents who have to choose to either pay the rent and eat, or pay the child support. (Child support obligations are not considered when determining eligibility for present programs.) Provide education and job training benefits so parents can increase their earning capability.

And last, some of those who testified have used this Commission as a forum for personal attacks against their ex-spouses. I was surprised that this testimony was allowed, especially when the ex-spouses, who were also present, were not allowed to respond.

We are all here because the present laws of divorce are not working and are not serving the people. Nothing will be gained by personal attacks against others. We must focus on what needs to be done to improve the laws for everyone's benefit.

Jeffrey Golden

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November 2, 1994

Commission to Study the Law of Divorce

Submitted by John E. McGowan, Citizen

Good day fellow New Jerseyans. In all probability I will not say anything new here today and that is perfectly acceptable. Acceptable because if I did say anything new or revolutionary, then this committee and those others who have testified and worked for constructive change have not done their job.

A job that should be considered an important one, as it is a first step in the processes that will hopefully change the antiquated, cumbersome and many times useless laws regarding divorce (and all it tangencies) here in the State of New Jersey. A change for the better and for the long term. However, in that change there needs to be a balance struck. A balance not unlike the scales on that of the icon of justice familiar to us all. A balance which supposedly judges on the merits of the in - div - id - ual case and the true realities of the information presented and the information available...kneejerk reactionaryism will not do!

Many times in the judicial system specifically and the "American" culture, there is a great miscommunication of information and many times misinformation pervades our culture on all levels. For example, American culture does not value touching (in its myriad formats) e.g., holding, caressing, even thoughtful expressions and rejects its use after the early ages of an individual.

As we know or should know, this simple act of touching each other communicates a wealth of information. It communicates our acceptance, respect and/or rejection of an other. That loss in our culture is probably responsible for a great deal of angst and undoubtedly has caused an added burden on our courts.

We no longer sit and talk to each other (read touch) everything is done at arm's length or further; especially in litigation. I have seen New Jersey family court judges discuss that these (child support for example) family court processes are non - adversarial, but have sent letters to "Dear Litigants". Further, there is an air in our courtrooms of a superior/inferior nature (purposefully designed it appears). For example, the physical setup denotes that immediately. The judge is on a raised platform separated by an imposing desk. He/she is followed in by an armed public servant. A servant who places his hand on his armament if a litigant (usually a male) even begins to raise his voice in protest or exclamation to court comments a judge has said or non - verbalized (physically or visually).

Additionally, those who work within the judicial systems, be they clerks or administrators in probation or the halls of justice have stated that the courtroom is the judge's private world that he runs and that *they* work for the judge" Well, I beg to differ, it is OUR courtroom, we pay for his/her salary, his/her perks and his/her decisions...wrong or right!!! Further, we as concerned parents are held accountable for actions (our fault or not) both in the present or far in the past.

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There is no such accountability or liability for past, present or future problems either caused or exacerbated by decisions made by family court judges or the judicial and social services that carry out his court orders. Tangential to this for example, in a case that I am very familiar with, the defendant was told in family court that his 5 year old child would not be "drug" into testify in a custody hearing. A point which I fully understood and could agree on, however, the child was 7.5 years old at the time and an interview had been requested (see Rules of The Court 5:8-6).

Unfortunately, there is not enough time to continue this train of thought here today because of limits of time. But, it is hoped that restraints of time will not foreclose the information that has begun to surface here today.

It is imperative that more learning take place with regard t perceptions and the realities that are presented. It is imperative that judges in family court are taught the proper relationship of subjectivity to objectivity, and that one can not be fully separated from the other. It is imperative that judgements of any kind be aware of the biases (inclusive of racial bias as well) inherent and it is imperative that the State of New Jersey include more minority representation. As well, include (as has been the case) who have more than a cursory (at arm's length) understanding and appreciation for the diaspora of peoples who live here in the state. For as we can see it has taken New Jersey 218 years and counting to get a person of color on the Supreme Court (Judge James H. Coleman). And finally (but in no way totally), reincorporate men into the lives of their children and as members of an Egalitarian society which began with a revolution, a revolution not yet completed. A revolution still to come.

In conclusion, we have not learned anything new here. It has been repetitive and with good cause. For in repetition we learn---hopefully.

To All AJR26 Commission Members: November 2, 1994

The following is my proposed solution to the unequal application and enforcement of law 2C:13-4(a) Interference with Custody and Visitation. My proposed solution format is obviously designed to eliminate custodial and/or gender bias in the application and enforcement of this law and unilaterally protect all children's rights. As this law is written, it preserves the right of any parent who kidnaps their children to be prosecuted to the fullest extent of the law. My proposal, and the present law as it is written, also preserves the right of any parent to file in civil court for damages. However, the present application and enforcement of this law is clearly and profoundly unacceptable. Disregarding court orders is abuse of the system, presently ignored by the system. Preventing or restricting parenting time whether or not a court order is in force is child abuse. Complaints under this law should be handled as acts of Domestic Violence.

Of utmost concern is any child's right to the benefit of two parents, thus I am not advocating incarceration of either parent. The proposed format is designed so that immediate redress can be enacted in the form of compensatory time, community service, and monetary fines. An immediate behavior modification is the best solution to this problem, not three to six months later, while the child's rights are being ignored, and possibly further violated pending action on the case by the system. When there is a breakdown in parental integrity, these unfortunate and powerless children need to know that there is a higher power there to assist and protect their rights. It is in these children's hour of need that the integrity of the law is ignored, and replaced with the discretionary powers of law enforcement agencies.

There is no intelligent reason for both parents and children to suffer because of one parent's actions. Tacitly condoned parental violations through non-prosecution at the Superior Court level do nothing to promote stability in any child's life, nor do they foster the feeling of a harmonious relationship between the two parents. All they do is reinforce and guarantee further parental violations of laws and court orders. It also further educates impressionable young children that the laws of our society are only to be followed and/or upheld when it's convenient. Educating children that laws and court orders are only to be adhered to and followed when it is convenient is an extremely dangerous practice. Children grow up to become parents, and the primary responsibility of parents is to educate their children to become responsible, upstanding and law-abiding members of society. Current application of this law is contrary to that ideal.

Thank you in advance for your time and consideration in this most important matter.

Sincerely,

Daniel John Hudson Sr. and Jr.

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Schedule of enforcements for custodial parents

1st parental violation of a child's right to the benefit of two parents

- summons issued - bail - release on recognizance
- mandatory municipal court appearance - mandatory 50.00 fine - plus court costs
- 6 months probation.
- mandatory compensatory parenting time ordered equal to that which was denied the child

1st complaint of parental violation of a child's right to the benefit of two parents: within 6 months of conviction under this statute

- summons issued - bail - 100.00 no 10% bond
- mandatory municipal court appearance - mandatory 100.00 fine - plus court costs
- mandatory community service equal to the parenting time denied the child
- 6 months sequential probation
- mandatory compensatory parenting time ordered double to that of which was denied the child

2nd complaint of parental violation of a child's right to the benefit of two parents: within 12 months of conviction under this statute

- warrant issued - bail - 200.00 no 10% bond
- mandatory municipal court appearance - mandatory 200.00 fine - plus court costs
- mandatory community service double to the parenting time denied the child
- 12 months sequential probation
- mandatory compensatory parenting time ordered triple to that of which was denied the child
- immediate mandatory scheduled superior court family part child custody evaluation and hearing

3rd complaint of parental violation of a child's right to the benefit of two parents: within 24 months of conviction under this statute

- warrant issued - bail - 400.00 no 10% bond
- mandatory municipal court appearance - mandatory 400.00 fine - plus court costs
- mandatory community service triple to the parenting time denied the child
- 12 months sequential probation
- immediate mandatory scheduled superior court family part automatic child custody reversal
- immediate mandatory scheduled superior court family part automatic child support and parenting time schedule hearing
- mandatory risk assessment - appropriate counseling to be court ordered
- mandatory (re-)enrollment in court ordered pre-divorce educational program mandatory enrollment in court ordered parenting classes

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Schedule of enforcements for noncustodial parents

1st parental violation of a child's right to the benefit of two parents:

- summons issued - bail - release on recognizance
- mandatory municipal court appearance - mandatory 50.00 fine - plus court costs
- 6 months probation
- mandatory supervision for next scheduled period of parenting time

1st complaint of parental violation of a child's right to the benefit of two parents: within 6 months of conviction under this statute

- summons issued - bail - 100.00 no 10% bond
- mandatory municipal court appearance - mandatory 100.00 fine - plus court costs
- mandatory community service equal to the parenting time denied the child
- 6 months sequential probation
- mandatory supervision for next month of parenting time

2nd complaint of parental violation of a child's right to the benefit of two parents: within 12 months of conviction under this statute

- warrant issued - bail - 200.00 no 10% bond
- mandatory municipal court appearance - mandatory 200.00 fine - plus court costs
- mandatory community service double to the parenting time denied the child
- 12 months sequential probation
- mandatory supervision for next three months of parenting time
- immediate mandatory scheduled superior court family part parenting time schedule evaluation and hearing

3rd complaint of parental violation of a child's right to the benefit of two parents: within 24 months of conviction under this statute

- warrant issued - bail - 400.00 no 10% bond -
- mandatory municipal court appearance - mandatory 400.00 fine - plus court costs
- mandatory community service triple to the parenting time denied the child
- 12 months sequential probation
- mandatory supervision for next six months of parenting time
- immediate mandatory scheduled superior court family part automatic parenting time schedule evaluation and hearing
- mandatory risk assessment - appropriate counseling to be court ordered
- mandatory (re-)enrollment in court ordered pre-divorce educational program
- mandatory enrollment in court ordered parenting classes

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WRITTEN TESTIMONY

ON JOINT PHYSICAL CUSTODY

FOR

THE COMMISSION TO STUDY THE

DIVORCE LAWS IN NEW JERSEY

Margaret McCabe

1711X

I am the mother of a thirteen year old boy. My ex-husband and I have joint physical custody with our son that was recommended by a court appointed mediator and awarded by a Judge in Monmouth County. This arrangement has been the best thing that could have happened to our son. His Dad plays a bigger part in his life now than when we were married. I am submitting this written testimony to the Commission for two reasons; one, to say first hand that true joint physical custody is the best way to go (unless there are abuse issues concerning the child) and two, to say that child support in a true joint physical custody arrangement should be very discretionary. I am not going to quote any statistics nor reference any of the many studies that were done to support joint physical custody. I am merely going to give my personal experience in this area.

My ex and I were married for eight years. Our son was seven years old when we separated. We attended pre-divorce counseling to figure out the best way to go about preparing our son for the inevitable as well as the best way to go about the separation. This step in itself was a life saver (details spared for bravity). Everything went according to plan until I took some bad advise and moved out on my ex while he was at work (details spared for bravity). This triggered an immediate mistrust in our divorce proceedings that very soon festered into what one would call a typical divorce in which hostility ran rampant and legal fees soared to well over $25,000 a piece. After two and a half years of going at it, the court appointed mediator made a recommendation to the court of joint physical custody. In retrospect, I can see that the mediator truly had the best interest of our child at hand. Of course I didn't agree with his assessment at the time, which prompted me to turn to NOW for support. I was very quickly pulled into one of the most anti-men arenas that I have every seen. It didn't take long to realize that their vested interest was not in the children - it was in advancing women in any way they could. They put me in contact with other women that had gone to the same court appointed mediator as I. Some of these women had actually accused their ex's of sexually abusing their children in an attempt to gain custody. In these cases, the mediator also recommended joint physical custody. It is obvious that this court appointed mediator was very aware of what goes on in divorce situations where custody is an issue. The NOW organization was trying to get this particular court appointed mediator thrown out of his practice by letter writing and trying to involve the media. They seemed so caught up in their own anger and hurt that they totally lost sight of what was really important - the children.

When my divorce was final and we became accustomed to the new joint physical custody arrangement, I couldn't believe how well it was working. When the judge awarded joint physical custody, he stated that he was not in favor of

it because of the hostility we displayed towards one another during our divorce and that he would only agree to it if my ex and I attended family counseling after the divorce. Well, we never even discussed family counseling - we didn't need to. We truly had the best interest of our son in mind at all times. Neither one of us had the pressures of raising a child alone. Neither one of us had the heart ache of having a child taken away. Neither one of us was left dealing with a child that had a parent taken away from them. As we all got more used to this arrangement, we even took advantage of it's many benefits. And there are MANY benefits to this type of arrangement. I would love to list them but they are to numerous to even count. Everyone benefits; our son, my ex, myself and society.

We have had this arrangement for six years now and our son has thrived on it. He has grown to appreciate having UNLIMITED access to **both** parents. He is well adjusted, doing well in school and will most likely grow up to be a productive part of society. I strongly urge the Commission to consider recommending that true joint physical custody be the standard here in New Jersey. Twenty to twenty-five years down the road the entire country, not just the state of New Jersey, would feel the benefits of such an arrangement.

To quickly make my second point about child support - there isn't any child support paid to either parent in our case. Our salaries were about ten thousand dollars apart (my ex making more) so we decided, ourselves, that it wasn't necessary. We both buy ample amount of clothing for our son. We both give him weekly allowance. We split 50/50 all medical bills. We share, 50/50, ALL other related expenses as they arise. We have both provided him with basically the same things at each house: TV, stereo, Sega, bike, etc.

One last word: I just want to comment on how unfair I think the the family court system here in New Jersey is to men. My ex was ordered to pay me more money than I could ever have imagined. He was ordered to pay alimony when I didn't even ASK for it. I was able to open a savings account, buy a new car and take my son to Disney World. I was able to buy things I couldn't afford when I was married. And on top of this, my husband was ordered to make all mortgage payments on the house as well as maintain it. The house that took *both* our incomes to qualify for the mortgage to buy. The house that took *both* our incomes to afford. If, when we were married, we thought my ex could afford the house on his income alone, I would not have been working. I felt terrible that he was ordered to do this but I didn't have anything to do with it. It was all done automatically through the court system. A year into the divorce he lost his job and the Judge gave him no relief. They even had the Probation Department garnish his unemployment

check and he started accruing arrears. He begged me to stop it but I wasn't the one doing it. Something has to be done to stop this insanity.

In summary, I would like to recommend that these following items be considered during the review of the divorce laws in New Jersey:

1. Pre-divorce counseling should be required. If for nothing else than to learn how the children should be approached and dealt with on the issue of divorce.

2. Mediation should be the norm instead of litigation.

3. Child support should be more realistic. And when it is awarded, how it is spent should be accounted for.

4. And last but certainly not least, **joint physical custody should be the standard** (unless there are issues of abuse dealing with the child).

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